

**COMMONWEALTH OF KENTUCKY  
JEFFERSON CIRCUIT COURT  
CIVIL ACTION NO. 24-CI-000518**

***ELECTRONICALLY FILED***

DANA MITCHELL; JULIE ANDERSEN;  
JAMES E. EVANS II; STEPHANIE  
SCHWARTZ; KAREN TUTT, Individually and  
as Administrator of the Estate of JAMES TUTT,  
JR., deceased; JESSICA BARRICK,  
Individually, as Next Friend, and as the Parent  
and Natural Guardian of C.G.B. and J.P.B.; and  
JAMES M. GILLY, JR., as Executor of the  
Estate of JOSHUA BARRICK, deceased;

PLAINTIFFS

V.

RIVER CITY FIREARMS, INC.;

Serve:  
Derrick Meyers  
2915 PRESTON HIGHWAY  
LOUISVILLE, KY 40217

and

DEFENDANTS

RSR GROUP, INC.;

Serve:  
Incorporating Services, Ltd.  
828 LANE ALLEN ROAD  
LEXINGTON, KY 40504

and

MAGPUL INDUSTRIES CORPORATION;

Serve:  
VCorp Services, LLC  
306 W MAIN STREET, SUITE 512  
FRANKFORT, KY 40601

**FIRST AMENDED COMPLAINT<sup>1</sup>**

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<sup>1</sup> Plaintiffs filed the original Complaint in this action, and the summons was issued, on January 22, 2024. Since that time no responsive pleading has been served. Plaintiffs file this Amended Complaint pursuant to CR 15.01.

Dana Mitchell; Julie Andersen; James “Jimmy” Evans; Stephanie “Dallas” Schwartz; Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., deceased; Jessica Barrick, individually, as Next Friend, and as Parent and Natural Guardian of C.G.B. and J.P.B.; and James M. Gilly, Jr., as Executor of the Estate of Joshua Barrick, deceased, by and through undersigned counsel, state as follows for their Complaint and Causes of Action against Defendants, River City Firearms, Inc. (“River City”), RSR Group, Inc. (“RSR”), and Magpul Industries Corporation (“Magpul”):

## I. INTRODUCTION

1. The morning of April 10, 2023, started out like any other at Old National Bank on East Main Street in Louisville. Jim Tutt got ready for work and arrived at the office shortly before 8:30 a.m. It was the day after Easter, and bank employees were in high spirits as they gathered in the conference room for the monthly sales meeting. Josh Barrick happily recounted his weekend at the Masters Tournament, and the upbeat chit-chat turned to his new suntan and souvenir cup. Dana Mitchell took a seat with her back to the glass wall that ran alongside the hallway. Julie Andersen was running a bit late and hoped that she would have time to make coffee before the meeting started. She kept an eye on her watch as coffee trickled out of the Keurig machine—a mundane experience that now inescapably reminds her of the tragedy that soon followed.

2. Dallas Schwartz also recalls a normal start to the morning at her relatively new job at Old National Bank. She went to put her lunch in the kitchen fridge, passing the all-glass conference room and seeing her colleagues assembled inside. When she first saw Connor Sturgeon come out of an office at 8:35 a.m., wearing safety glasses and carrying a gun, she wondered for a

split second if this was some sort of drill. He looked at her and said: “It’s time to go.” Sturgeon shot Dallas as soon as she turned toward him, striking her once in the left leg. As Dallas fell, Sturgeon turned and headed purposefully toward the conference room.

3. Unbeknownst to Dallas or any of her colleagues, one week prior, Sturgeon had decided to commit a mass shooting at his workplace. The next day, in the throes of an acute mental health crisis, he walked into River City Firearms. A short while later, he walked out with the firearm favored by mass shooters: an AR-15-style rifle, as well as three extra 30-round large-capacity magazines, a red-dot sight, a vertical grip, and *just enough* ammunition to load each of his magazines once.

4. Federally licensed firearms dealers (“FFLs”) like River City are trained to spot individuals who are incapable of handling firearms responsibly or may have nefarious intentions. FFLs are instructed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) that they are the first line of defense in preventing firearms from falling into the wrong hands, and that they should *not* proceed with suspicious sales. They are trained by the ATF and industry trade groups on certain red flags of suspicious behavior: Does the customer lack any knowledge about firearms? Does the customer not care about the make and model of the firearm he is purchasing? Is the customer behaving oddly or in a nervous manner? Is the customer attempting to buy a gun that is not suitable for his stated purpose? While each of these red flags, on their own, may not be a reason to terminate a transaction, they are each a reason to ask questions of the customer and, if suspicions persist, to not proceed with the sale.

5. These red flags were present in spades on April 4, 2023, when Sturgeon walked into River City with the intention of buying an AR-15 to commit a mass shooting. Eyewitness

testimony from within the store confirms that he demonstrated a complete lack of knowledge or experience with firearms and that he spoke in an unusually quiet tone and appeared embarrassed upon making eye contact with others, lowering his head and averting his gaze. A mere twenty minutes spent near Sturgeon left such an impression on one patron that afterward she considered calling the police. What's more, according to Sturgeon's writings, he told the clerk that he wanted the firearm because a friend's home had recently been burglarized, indicating that he wanted to buy an AR-15 for home defense, a use for which an AR-15 is particularly poorly suited for a novice shooter (something that any responsible and experienced firearm salesman would readily admit).

6. As an FFL, River City has a legal duty to not sell guns to prospective purchasers whom it knows, or reasonably should know, pose an unreasonable risk of harm to themselves or others. And given the red flags that Sturgeon presented at the time of purchase, it was a reckless dereliction of duty for River City to negligently entrust him with an AR-15-style rifle.

7. But not only did River City fail to stop the transaction, it used the opportunity to make additional profit by piling on dangerous accessories that it obtained from distributor RSR—accessories that emboldened the novice shooter and made him more deadly: three additional Magpul 30-round large-capacity magazines, a red-dot sight to increase the accuracy of his aim, and a Magpul vertical grip for greater control over the weapon.

8. While such upselling may be a common and innocuous sales practice in other industries, it is exceedingly dangerous when it involves products that enable a customer to kill faster and more efficiently. This fact should have been obvious to River City given the number of lives that have been taken by mass shooters in recent years wielding similarly equipped AR-15-style rifles.

9. River City is not the only entity that bears responsibility for negligently supplying Sturgeon with all the dangerous accessories he needed to commit his heinous act. RSR and Magpul failed to exercise reasonable care—or any care at all—to ensure that the lethal products they make and distribute were not sold to individuals who pose a risk to themselves and others. Upon information and belief, RSR and Magpul failed to exercise reasonable care by, among other things, failing to implement reasonable controls with regard to the sale of their products, such as by ensuring that their retailers did not have a history of violating federal regulations, by verifying that their retailers did not sell a disproportionate number of crime guns, by verifying or requiring that their retailers were adequately trained to identify suspicious transactions, and by ensuring that their products were not sold to individuals who posed a risk to themselves or others.

10. Back in the conference room at Old National Bank, the foreseeable and tragic consequences of Defendants' negligence were playing out. When Sturgeon shot Dallas, the staff in the monthly sales meeting had just begun to go around the table to share updates. Jimmy Evans had just started speaking when Dana Mitchell saw Sturgeon standing in the hallway with the gun that River City had placed in his hands. She credits that split second of recognition with saving her life, as people on either side of her perished in the attack. Julie heard a gasp and the click of Sturgeon's gun as he attempted to fire. She couldn't believe that she was about to experience the new national nightmare—a workplace shooting.

11. In the span of a moment, the room fell into chaos. Josh attempted to flee the conference room but was shot and killed by Sturgeon in the hallway. Jimmy saw the exterior glass walls being shattered by gunfire as he sought shelter in a closet in the corner of the room. The smell of gunpowder and the sound of screams and breaking glass filled the air. Julie pushed her

chair back and fell to the ground. She crawled backward into a corner and pulled a chair over her body, frantically seeking any cover. Dana crawled under the table and was shot while on the floor. She told herself to stay still and hold her breath so Sturgeon would not know that she was still alive. Julie played dead and tried not to move while a colleague next to her pleaded with Sturgeon.

12. After a couple of minutes, the room got quiet—no one moved or spoke. The survivors lay there for what felt like an eternity. “Seconds seemed like minutes; minutes seemed like hours,” recalls Dana.

13. Outside the conference room, Dallas had been able to make it to the bathroom after being shot, leaving a trail of blood in her wake. She sought shelter in a stall after realizing that the main bathroom door did not lock. She called 9-1-1, but couldn’t get through. Dallas remembers sitting down and seeing a “massive amount” of her own blood on the floor. She used her scarf to fashion a tourniquet before calling her mother to tell her that she was bleeding out. She heard so many gunshots that she was sure none of her colleagues had survived.

14. Relief finally came for the survivors still inside the office with the sound of police sirens. Dana and Julie heard a barrage of different-sounding gunshots coming from a different part of the building and realized that law enforcement was exchanging fire with Sturgeon.

15. Jimmy, meanwhile, had a chance to flee from his hiding spot after Sturgeon’s attack on the conference room ended. He sought safety near a building across East Main Street, but went back to help an injured colleague who was struggling to cross the road. Jimmy heard three or four shots and realized he’d been hit in the calf.

16. Two minutes later, all gunfire finally ceased. Law-enforcement officers were able to lead Dana and Julie out of the conference room. But their relief was mingled with horror as they

were forced to walk past the bodies of their coworkers and friends. “We knew they were gone,” remembers Dana. To exit the building, the survivors had to step over Sturgeon’s lifeless body. The lobby was piled high with broken glass generated by the shootout with law enforcement, in which Sturgeon had shot two of the responding officers. One of these officers, shot in the head, had graduated from the police academy just ten days prior.

17. Life has been irreparably changed for everyone who was present at Old National Bank on the morning of April 10, 2023. Recovery is ongoing for the myriad physical injuries suffered by the survivors. Even harder to treat are the emotional injuries that pervade their daily lives—the PTSD, the fear of loud noises and crowded spaces, the grief at losing their friends and colleagues, the survivor’s guilt. And the terrible loss endured by the families of the deceased, including Jim Tutt and Josh Barrick, beloved husbands and fathers both, is impossible to treat.

18. Sturgeon pulled the trigger of the assault rifle that killed, wounded, and traumatized the employees—his coworkers—at Old National Bank. But Defendants’ negligence was also a substantial factor in causing the harm to each of the Plaintiffs. Sturgeon should never have been able to acquire the rifle he used to carry out this attack, much less the full suite of equipment that emboldened and enabled him to wreak this level of devastation. Magpul and RSR knew well the potentially devastating use of their products should they fall into the wrong hands, yet they took no steps to guard against such sales, encouraging their dealers to put profits ahead of safety. And an experienced FFL like River City should have carefully assessed the red flags that Sturgeon so obviously presented, and should have cut him off, rather than choosing to take his money and look the other way.

## II. PARTIES

19. Plaintiff Dana Mitchell, a resident of Jefferson County, Kentucky, was present at Old National Bank in Louisville during the shooting and was shot and injured by Sturgeon.

20. Plaintiff Julie Andersen, a resident of Jefferson County, Kentucky, was present at Old National Bank in Louisville during the shooting and was shot and injured by Sturgeon.

21. Plaintiff James (“Jimmy”) Evans, a resident of Jefferson County, Kentucky, was present in the conference room throughout the shooting. He was shot and injured by Sturgeon outside the building during Sturgeon’s shootout with law enforcement.

22. Plaintiff Stephanie “Dallas” Schwartz, a resident of Clark County, Indiana, was present at Old National Bank in Louisville during the shooting and was shot and injured by Sturgeon.

23. Plaintiff Karen Tutt is a resident of Jefferson County, Kentucky and was legally married to James Tutt, Jr., (“Jim Tutt”), at all relevant times hereto. Jim Tutt, a resident of Jefferson County, Kentucky, was murdered by Sturgeon on April 10, 2023, in Louisville, Jefferson County, Kentucky. He was 64 years old and a pillar of his community: a leading supporter of the effort to revitalize the area around the bank, an active member of his church, and most importantly a beloved husband and father. On June 29, 2023, Karen Tutt was duly qualified and appointed by the Jefferson District Probate Court as the Administrator of Jim’s Estate. (See Exhibit A). Karen Tutt brings this action individually and on behalf of the Estate of James Tutt, Jr.





*Pictured above: Jim and Karen Tutt (left); Jim and Karen with children and grandchildren (right).*

24. Plaintiff Jessica Barrick, a resident of Jefferson County, Kentucky, was legally married to and the spouse of Joshua (“Josh”) Barrick at all times relevant hereto. Josh Barrick, a resident of Jefferson County, Kentucky, was murdered by Sturgeon on April 10, 2023, in Louisville, Jefferson County, Kentucky. He was 40 years old. In addition to Jessica, Josh is survived by his minor children, C.G.B., nine years old, and J.P.B., seven years old. Josh was a devoted husband and father and was known as a warm and generous friend to all. His kids knew him as the “ultimate dad.” He coached their sports, took them to mass, and always took the time to share breakfasts in the morning. Josh was also a dedicated and generous member of his church. Jessica Barrick brings this action individually, as next friend, and as parent of their minor children. (See Exhibit B.)



*Pictured above: Josh Barrick (left); Josh and Jessica with their children (right).*

25. On June 19, 2023, Plaintiff James M. Gilly, Jr. was duly qualified and appointed by the Jefferson District Probate Court, Case No. 23-P-002168, as the Executor of Josh's Estate. (See Exhibit C.)

26. Defendant River City Firearms, Inc. is a for-profit Kentucky corporation that on April 4, 2023, sold and transferred to Sturgeon the AR-15-style rifle, accompanying accessories, and ammunition that Sturgeon used to commit his heinous act at Old National Bank. River City's principal place of business is 2915 Preston Highway, Louisville, Kentucky 40217, and it may be served with process by serving its registered agent, Derrick Meyers at 2915 Preston Highway, Louisville, Kentucky 40217.

27. Defendant RSR Group, Inc. is a for-profit Delaware corporation headquartered in Florida. RSR is a wholesale distributor of firearms and firearm accessories that supplied River City with the large-capacity Magpul PMAG magazines, Magpul M-LOK vertical grip, and Crimson Trace red-dot sight purchased by Sturgeon and used to wound and kill Plaintiffs at Old National Bank. Upon information and belief, RSR is one of the five largest firearm-accessory wholesalers

in the country. RSR's principal place of business is 4405 Metric Drive, Winter Park, Florida 32792, and it may be served with process by serving its registered agent, Incorporating Services, Ltd. at 828 Lane Allen Road, Lexington, Kentucky 40504.

28. Defendant Magpul Industries Corporation is a for-profit Delaware corporation headquartered in Texas. Magpul is a manufacturer of firearm accessories, including the large-capacity PMAG magazines and M-LOK vertical grip purchased by Sturgeon and used to wound and kill Plaintiffs at Old National Bank. Upon information and belief, Magpul is the industry leader in the manufacture of large-capacity magazines, accounting for the vast majority of the market. Magpul's principal place of business is 5408 W Highway 290, Austin, Texas 78735, and it may be served by process by serving its registered agent, VCorp Services, LLC at 306 W Main Street, Suite 512, Frankfort, Kentucky 40601.

### **III. JURISDICTION AND VENUE**

29. Each of the Plaintiffs have been damaged in an amount in excess of any minimum dollar amount necessary to establish jurisdiction in this Court.

30. This Court has jurisdiction over River City because it is incorporated and headquartered in Kentucky.

31. This Court has personal jurisdiction over RSR pursuant to Ky. Rev. Stat. § 454.210 because it shipped the firearm accessories sold by River City and used by Sturgeon directly into Kentucky, regularly contracts to supply goods in Kentucky, and has caused tortious injury in Kentucky. RSR has registered with the Kentucky Secretary of State to do business in Kentucky and has a local registered agent.

32. This Court has personal jurisdiction over Magpul pursuant to Ky. Rev. Stat. § 454.210 because it transacts business in Kentucky, contracts to supply goods in Kentucky, and has caused tortious injury within Kentucky. Magpul sells firearm accessories directly to Kentucky residents through its own website and also contracts with distributors that ship its products into Kentucky. Magpul also contracts with retailers to make its products available in brick-and-mortar locations within Jefferson County and across Kentucky. Magpul thus regularly does business and engages in a persistent course of conduct in Kentucky that relates directly to the Plaintiffs' injuries. Magpul has registered with the Kentucky Secretary of State to do business in Kentucky and has a local registered agent.

33. Venue is proper in this Court under Ky. Rev. Stat. Ann. §§ 454.210 and 452.460, because transactions and occurrences that form the basis for this Complaint occurred in Jefferson County, the subject tort was committed in Jefferson County, and River City resides in and committed the subject torts in Jefferson County.

#### **IV. GENERAL ALLEGATIONS**

##### **a. River City Knew, or Should Have Known, that the AR-15 Is the Preferred Firearm for Mass Shooters.**

34. Derrick Meyers and his wife Tami founded River City Firearms in December 2011. In July 2012, a 24-year-old man attacked a movie theater in Aurora, Colorado, with an arsenal that included an AR-15-style rifle, killing 12 and injuring 58. Five months later, a 20-year-old walked into Sandy Hook Elementary School carrying an AR-15 and killed 26 people, including 20 children. As Meyers later recounted to reporters, that's when business really took off.<sup>2</sup>

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<sup>2</sup> Jacob Ryan, *Kentucky Leads U.S. in Firearm Background Checks*, Louisville Pub. Media (Dec. 4, 2015, 12:05 PM), <https://www.lpm.org/news/2015-12-04/kentucky-leads-u-s-in-firearm>

35. Since 2012, AR-15-style rifles equipped with large-capacity magazines have become the go-to weapon for young men intent on causing mass destruction. These weapons, originally designed to be extremely effective in combat, allow inexperienced shooters to kill many people quickly and easily. For this reason, mass shooters from Sandy Hook to San Bernardino to Parkland to Uvalde to Buffalo have, time and time again, turned to these weapons to increase their carnage—a fact that River City and its employees knew, or should have known.

36. In fact, 11 of this country's 15 largest mass shootings since 2012—including the shootings in Aurora and at Sandy Hook—were carried out with AR-15-style firearms. Each of them received widespread press coverage.

- On December 2, 2015, 36 people were shot and 14 killed at a workplace event in San Bernardino, California.
- On October 1, 2017, 471 people were shot and 60 killed at a country-music concert in Las Vegas, Nevada.
- On November 5, 2017, 45 people were shot and 25 killed, including 8 children and a pregnant woman, at a church service in Sutherland Springs, Texas.
- On February 14, 2018, 34 people were shot and 17 killed, including 14 students, at a high school in Parkland, Florida.
- On August 4, 2019, 26 people were shot and 9 killed on a night out in downtown Dayton, Ohio.
- On August 31, 2019, 32 people were shot and 7 killed in a shooting spree in the Midland–Odessa metropolitan area in Texas.
- On May 24, 2022, 38 people were shot and 21 killed, including 19 fourth-graders, in an elementary school in Uvalde, Texas.

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-background-checks; Adam Shaw, *Gun Buys, Applications Likely to Surge as Pols Push Gun Control Laws*, Fox News, <https://www.foxnews.com/politics/gun-buys-applications-likely-to-surge-as-pols-push-gun-control-laws> (May 2, 2016, 3:32 PM).

- On July 4, 2022, 55 people were shot and 7 killed at an Independence Day parade in Highland Park, Illinois.
- On November 19, 2022, 22 people were shot and 5 killed at a nightclub in Colorado Springs, Colorado.

37. In addition to their high rates of fire, AR-15-style rifles discharge rounds that travel much faster than handgun bullets. This means that these bullets have more kinetic energy, so when the bullet hits a person, it causes more lethal damage to the human body. While handgun bullets typically travel in a linear path through the body and create relatively small entry and exit wounds, AR-15 rounds hit the human body with such speed that they can shred organs, destroy large swaths of tissue, and leave exit wounds the size of an orange. Medical professionals describe AR-15 rounds as leaving not bullet holes but cavities within the body.

38. As an experienced FFL, River City knew, or had reason to know, all these facts on April 4, 2023, when Sturgeon came into the store. In fact, Derrick Meyers keeps abreast of how mass shootings impact both his bottom line and potential gun regulations. In the aftermath of the mass shooting in San Bernardino, Meyers spoke to numerous reporters about the impact of mass shootings on gun sales, and declared, “Business is very, very good.”<sup>3</sup> He told another reporter, “We are so busy right now that I don’t know if I’m coming or going.”<sup>4</sup>

**b. River City Was Aware of Its Responsibility to Decline Dangerous Sales.**

39. River City, like all FFLs, has a responsibility to prevent firearms and deadly accessories from falling into dangerous hands. As the ATF emphasizes, FFLs are the “first line of defense in preventing firearms from getting into the hands of criminals.”<sup>5</sup>

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<sup>3</sup> Ryan, *supra* note 2.

<sup>4</sup> Shaw, *supra* note 2.

<sup>5</sup> *Best Practices*, FFL Newsletter (ATF), Sept. 2013, at 2, <https://www.atf.gov/firearms/docs/newsletter/federal-firearms-licensees-newsletter-september-2013-volume-1/download>.

40. The ATF, the National Shooting Sports Foundation (“NSSF”), and private compliance consultants make available a myriad of resources that teach FFLs how to identify and prevent dangerous firearms sales. These resources include newsletters, booklets, webinars, videos, and in-person training.

41. These resources all have two recommendations in common: First, dealers should ask about the intended use of the firearm—both to identify any mismatch between the purported use and the firearm selected and as an opportunity to assess the customer’s behavior. Second, these resources tell dealers that they have the right and the obligation to decline a sale if something doesn’t feel right. It is an FFL’s prerogative and responsibility to err on the side of caution to prevent firearms from falling into dangerous hands.

42. Additionally, these materials specifically warn FFLs to look out for certain warning signs, including customers who appear nervous or uneasy or avoid eye contact; customers who are unfamiliar with the firearms that they are seeking to purchase; and customers whose stated intentions are inconsistent with the firearms they choose. These are well-known red flags for illegal behavior in the firearms industry, and upon information and belief, River City was aware of these red flags and knew or should have known to look out for them.

43. In 2016, the Louisville ATF field office identified River City as a candidate for a “Top 100 trace” compliance inspection, meaning that it was a top source of crime guns, and accordingly, in 2017, the ATF inspected River City to ensure compliance with federal laws and regulations.

44. During the inspection, the ATF identified and brought to River City's attention numerous possible straw purchasers, firearms traffickers, and one convicted felon who had bought, or attempted to buy, firearms at River City.

45. The ATF also identified nine separate categories of violations by River City, including failing to obtain accurate transaction forms and failing to comply with reporting requirements. These violations resulted in a warning letter from the ATF, which reminded River City that its compliance with federal regulations is critical to "reduc[ing] violent crime and protect[ing] the public."

46. At the end of the inspection, the ATF reviewed River City's legal obligations with representatives of the business, including owner Derrick Meyers. Meyers subsequently signed an Acknowledgment of Federal Firearms Regulations, recognizing that River City was responsible for understanding and complying with laws and regulations applicable to the sale of firearms.

47. River City was thus aware of its responsibilities under federal law as an FFL, its past failure to effectively prevent its firearms from being obtained by criminals, and its obligation to follow all applicable laws and guidance moving forward.

48. Nevertheless, River City has remained a top source of firearms used in crime. It was recently publicized that, in both 2022 and 2023, at least twenty-five firearms sold by River City within the prior three years were traced to a crime. This is true of fewer than 2% of gun dealers nationwide. Shorter "time-to-crime" periods—the amount of time between the sale of a firearm and its recovery by law enforcement—are significant indicators of firearm trafficking.

49. FFLs like River City are trained by the ATF to be the "first line of defense" to prevent firearms from falling into the wrong hands. River City was aware of this heavy



responsibility but failed in its obligation on the day that Sturgeon entered the store. As a direct and foreseeable result of this failure, the Plaintiffs were killed or grievously injured.

**c. River City Ignored Numerous Red Flags When It Sold Connor Sturgeon an Assault Rifle and Deadly Accessories.**

50. On Monday, April 3, 2023, Connor Sturgeon decided to carry out a mass shooting. He would later write in his journal, “[s]omething snapped on Monday.” Like so many young men before him, he decided to use an AR-15 to perpetrate his planned heinous act.

51. The next day, Sturgeon drove to River City and entered the store at 11:09 a.m.

52. Unlike the trained and experienced employees of the store, Sturgeon was clearly a complete novice with firearms. As a witness in the store recounted, and store security footage confirms, a River City employee had to teach Sturgeon how to perform basic functions with the gun, such as how to load it, hold it, and use its various features.



*Pictured above: River City employee showing Sturgeon how to use an AR-15-style rifle.*

53. A witness in the store recalled that it was obvious that Sturgeon had never handled a gun before. This witness reported that Sturgeon also commented about the high cost of the

firearm and accessories—despite purchasing one of the cheapest AR-15-style rifles on the market—further displaying his inexperience and ignorance about firearms.

54. In addition to his obvious inexperience, Sturgeon behaved oddly at the store. He appeared visibly uncomfortable, keeping his arms tightly crossed, standing slightly hunched over, and frequently licking his lips.



*Pictured above: Sturgeon stands uncomfortably while being shown an AR-style rifle.*

55. A witness in the store recalled that Sturgeon spoke very quietly with the salesperson and, upon making eye contact with the witness, averted his gaze and hung his head in evident shame or embarrassment. So strong were the red flags displayed by Sturgeon that upon exiting the store, the witness considered contacting the authorities herself.

56. According to a letter that he wrote his parents later that week, Sturgeon told the salesperson at River City that he wanted a firearm because a friend's home had recently been broken into, suggesting that he needed the firearm for home defense. And indeed the store employee assisting Sturgeon initially showed him several handguns, which are much more

appropriate for self-defense. Upon information and belief, however, Sturgeon made clear that he was only interested in an AR-15-style rifle.

57. Because its high-powered rounds can easily penetrate walls, firing an AR-15-style rifle inside a home dramatically increases the danger to innocent people elsewhere in the residence or in neighboring apartments as compared to the use of a handgun. Additionally, an AR-15 weighs more than twice as much as a handgun and requires two hands to aim and fire, making it more cumbersome to use at a moment's notice and in stressful conditions, such as during a home invasion. And many handguns can be obtained for much less money than an AR-15. Accordingly, an apparent novice like Sturgeon, who expressed concern about the price of the weapon he was buying, would be unlikely to seek out an AR-15-style rifle for home defense.<sup>6</sup> Therefore, River City knew, or reasonably should have known, that, under all the circumstances, an AR-15-style rifle was not a suitable choice for home defense for this purchaser.

58. Sturgeon's statements and demeanor should have alerted River City to the likelihood that he was planning to use the weapon not for self-defense but, more likely than not, in a manner posing an unreasonable risk of harming others.

59. Despite these red flags, River City went through with the transaction and sold Sturgeon a Radical Firearms AR-15-style rifle named the "RF-15." On April 10, 2023, when news of the shooting broke, the witness from River City turned to her husband and said, "I bet it's that

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<sup>6</sup> As the Supreme Court observed in *District of Columbia v. Heller*, there are "many reasons" a handgun is "the quintessential" self-defense weapon:

It is easier to store in a location that is readily accessible in an emergency; it cannot easily be redirected or wrestled away by an attacker; it is easier to use for those without the upper-body strength to lift and aim a long gun; it can be pointed at a burglar with one hand while the other hand dials the police.

554 U.S. 570, 629 (2008).

kid from the store.” This bystander, who never even spoke to Sturgeon, could nevertheless tell that he was a troubled man who should not have been entrusted with an AR-15. River City, with years of training and a greater opportunity to assess Sturgeon, had the opportunity and responsibility to decline to sell him an AR-15-style rifle.

**d. River City Sold Sturgeon Firearm Accessories That Made His Attack More Deadly.**

60. Not only did River City sell Sturgeon the AR-15-style rifle that he used to terrorize his colleagues, it also sold him an entire suite of accessories that made the massacre more deadly than it otherwise would have been: three large-capacity Magpul PMAG magazines, a Magpul M-LOK vertical grip (used to enhance the shooter’s stability and control), and a Crimson Trace red-dot sight (which increases the shooter’s accuracy).

ADDW0  
No. 98 AN  
DATE 4/4/2023  
ORDER NO.

NAME  
ADDRESS  
CITY, STATE, ZIP

SOLD BY  CASH  C.O.D.  PAID OUT  
 CHARGE  MERCHANDISE RETURNED

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	Radical Firearms AR-15 21-089424		499.99
6	Box 5.56	@	12.99
1	M-lok grip		23.95
3	Pmag	@	12.95
1	CT Red dot		79.99
			719.72
			43.18
			762.90

SIGNATURE  
PAD

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.

*Pictured above: Sturgeon’s receipt from River City. Image taken from LMPD Report.*

61. Upon information and belief, an employee of River City encouraged Sturgeon to purchase the Magpul M-LOK vertical grip, the Crimson Trace red-dot sight, and/or the large-capacity Magpul PMAG magazines that he used in the attack. A first-time gun user like Sturgeon would not have known to ask for these accessories. Moreover, the report of the Louisville Metro Police (“LMPD Report”) indicates that prior to April 4, Sturgeon never conducted Internet searches about firearms or related products.



*Pictured above: River City employee selecting accessories for Sturgeon to purchase.*

62. As River City knew, or reasonably should have known, a vertical grip and a red-dot sight are designed to increase a shooter’s control and accuracy.

63. The vertical grip increases stability. When an AR-15-style rifle is fired, propellant gases push the bullet down the barrel before being redirected back toward the bolt carrier—the component that ejects the spent ammunition casings and prepares subsequent rounds for firing. The gas drives the bolt carrier forward so it can strip a fresh round from the top of the magazine

and into the chamber, making the rifle ready to fire again. The force created from this process—essentially a controlled explosion—results in a rearward thrust referred to as “recoil” or “kickback.”



*Pictured above: Magpul M-LOK MVG Vertical Grip. Images taken from Magpul website.*

64. A vertical grip, pictured above, provides the shooter with greater stability in the face of this kinetic force. The grip is affixed to the rifle’s lower rail for the shooter to grasp, reducing recoil and allowing for greater control—especially during the rapid fire that AR-15-style rifles are capable of. The model pictured above is the product that River City sold to Sturgeon.



*Pictured above: CTS-25 Compact Red Dot Sight. Product photo (left); consumer image (right).*

65. A red-dot sight, pictured above, is mounted atop a rifle. Originally designed for shooting competitions, red-dot sights project a small red aiming dot on a clear viewing window. To aim, shooters simply need to superimpose the aiming dot on their intended target. A red-dot sight creates a fast and easy-to-use aiming system that is particularly effective in close-range engagements.

66. Consequently, red-dot sights make it easier for mass shooters to target their victims with deadly accuracy. Of the aforementioned eleven most destructive mass shootings since 2012 that involved AR-15s, shooters used this type of sight in at least nine: Aurora, Colorado Springs, Dayton, Las Vegas, Midland–Odessa, Parkland, San Bernardino, Sutherland Springs, and Uvalde.

67. Upon information and belief, River City encouraged Sturgeon to purchase these accuracy-enhancing accessories. The River City employee who assisted Sturgeon led him to the accessories wall and appeared to suggest which products to purchase. The employee also appeared to attach the red-dot sight to the rifle himself in the store and appeared to provide Sturgeon with guidance on how to use the accessories. The employee had to correct Sturgeon when he initially held the red-dot sight far too close to his face.



*Pictured above: Sturgeon incorrectly holding the red-dot sight close to his face.*



*Pictured above: River City employee shows Sturgeon how to use the sight that the employee attached to the rifle, with the open Crimson Trace box visible in his hand.*

68. After he left the store, Sturgeon neither visited a gun range nor searched the Internet for information about how to use a firearm. His handling of the rifle during the attack confirms that he lacked a firm understanding of how to operate the weapon. When he encountered his first



victim, for instance, he pulled the trigger without successfully discharging a round. Yet, with all the deadly accessories sold to him by River City, he was still able to kill five people and injure eight others.

69. Sturgeon's attack took place in extremely close quarters, particularly his assault on the conference room. The LMPD Report describes Sturgeon "taking different stances/angles" in order to hit the room's occupants. New shooters often have difficulty aiming and using their firearms in confined spaces. Even special forces operators consistently train in hallways and "shoot houses" to be able to fire accurately in such spaces. The accuracy and control provided by the sight and grip helped Sturgeon overcome these difficulties and cause greater carnage.

70. Magazines are ammunition-feeding devices that contain the unfired rounds. Large-capacity magazines ("LCMs") are magazines capable of holding more than ten rounds of ammunition. The larger the magazine's capacity, the more rounds the shooter can fire before having to reload his weapon. The thirty-round Magpul LCMs River City sold to Sturgeon are pictured below.



*Pictured above: Magpul PMAG 30-Round Magazine. Images taken from Magpul website.*

71. LCMs were used in all ten of the most destructive mass shootings since 2012 that were committed with an AR-15 for which the magazine type is known. The LCM used by the mass shooter in Dayton allowed him to shoot twenty-six victims in just thirty-two seconds. The thirty- and forty-round LCMs used by the mass shooter in Parkland enabled him to shoot his first twenty-four victims in less than two minutes, and his next ten victims in forty-five seconds.

72. The few seconds that it takes for a shooter to change magazines can mean the difference between life and death. In the Tucson shooting that wounded then-Representative Gabrielle Giffords, for example, bystanders were able to tackle and incapacitate the shooter once he stopped to load another magazine into his weapon.

73. LCMs make mass shootings more deadly. From 2015 to 2022, the 29 mass shootings that verifiably involved the use of LCMs resulted in 34.9 people shot, 12.3 people killed, and 22.6 people wounded on average per incident, compared to an average of 7.2 people shot, 4.9 people killed, and 2.3 people wounded in the 19 mass shootings that did not involve LCMs.<sup>7</sup> This translates to more than twice as many people killed and nearly ten times as many people wounded per shooting on average.

74. Because of the Magpul LCMs he purchased, Sturgeon only had to perform one single magazine reload during the attack. He used most or all of the first LCM in his twenty-three-second assault on the conference room, firing between 25 and 30 rounds out of the 30-round magazine. Despite Sturgeon's complete lack of experience, twenty-three seconds was enough time

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<sup>7</sup> *Assault Weapons and High-Capacity Magazines*, Everytown Rsch. & Pol'y (Mar. 22, 2019), <https://everytownresearch.org/report/assault-weapons-and-high-capacity-magazines/> (last updated May 24, 2023).

for him to shoot and kill five people, including Jim Tutt and Josh Barrick, and to injure Julie Andersen, Dana Mitchell, and Dallas Schwartz.

75. He then reloaded with a fresh LCM before opening fire on law enforcement and Jimmy Evans. After reloading, Sturgeon shot approximately twelve more rounds, including firing the shot that struck Jimmy while he tried to help his coworker cross the street to safety. If River City had not sold Sturgeon this extra Magpul LCM, Sturgeon would not have been able to continue firing. Instead, bullets continued to rain down on innocents until Sturgeon was incapacitated.

76. Given the numerous red flags that Sturgeon raised during the sale, it was negligent for River City to provide him with these additional accessories that made him even more deadly.

77. These accessories sold to Sturgeon by River City emboldened him to carry out his heinous act and resulted in more carnage at Old National Bank than Sturgeon would have otherwise caused.

**e. Magpul and RSR Failed to Enact Reasonable Safeguards on the Sale of Accessories That They Know Increase a Firearm's Lethality.**

78. River City purchased the accessories that it sold to Sturgeon from wholesale distributor RSR. Distributors like RSR act as middlemen by purchasing products in bulk from manufacturers, such as Magpul, and selling these products at wholesale prices to dealers like River City. River City ordered the Magpul PMAG 30-round magazines used by Sturgeon from RSR on December 31, 2022, and it ordered the Magpul M-LOK vertical grip used by Sturgeon from RSR on March 15, 2023.

79. Accessories such as the Magpul vertical grip, Crimson Trace red-dot sight, and Magpul LCMs sold to Sturgeon make firearms more effective and thus more deadly. Industry giants such as Magpul and RSR surely knew—or should have known—that shooters have used

such firearm accessories in most of the deadliest recent mass shootings in order to inflict maximum devastation.<sup>8</sup>

80. Members of the firearms and firearm-accessories industries have a heightened duty of care because of the risks associated with products that make weapons more deadly. Manufacturers and distributors must take care to ensure that their products are sold responsibly. Because it controls the lion's share of the LCM market, Magpul has the power to dictate the terms under which its products are marketed, promoted, and sold. Yet despite the obvious dangers posed by their products, upon information and belief neither RSR nor Magpul implemented or designed any reasonable controls pertaining to the marketing, promotion, or sale of their lethal accessories. Reasonable controls that could have been—but were not—imposed include: ensuring that dealers selling their products do not have a history of violating federal firearm regulations, ensuring that retailers are adequately trained to identify red flags of suspicious transactions, verifying that retailers selling their products do not have a record of selling a disproportionate number of crime guns, or otherwise ensuring that their retailers were trained not to sell their products to individuals who pose a risk to themselves or others.

81. Firearm-accessory manufacturers and distributors offer a variety of incentives for dealers to order and sell ever more products. Such incentives include tiered pricing that provides greater discounts based on order volume, “buy one, get one” deals, and even programs that reward gun stores and their employees based on the number of products they sell.

82. In the absence of any reasonable controls, these incentives encourage dealers to put profit over safety by selling as many products as possible, regardless of whether they are

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<sup>8</sup> See *supra* ¶¶ 66, 71.

appropriate for the customer's stated intentions or level of experience. Upon information and belief, Magpul and/or RSR offered at least some of the above incentives in connection with the accessories sold to Sturgeon.

83. The failure to develop or implement reasonable controls to prevent sales to individuals who pose a risk to themselves and others, along with financial incentives for gun stores to push the sale of dangerous products, constitutes negligence.

84. The sale of accessories to Sturgeon at River City was the logical conclusion of this negligence. The employee of a store with a history of federal firearms violations and a record of selling a disproportionate number of crime guns led Sturgeon to a wall blanketed with firearm accessories and proceeded to instruct Sturgeon—an obvious novice—on what to purchase, despite the fact that these accessories were neither fit for his stated purpose nor appropriate for his level of experience. The employee is seen on video, for example, selecting the Magpul vertical grip and demonstrating how it could help Sturgeon more deftly handle and aim his new rifle, which he would use six days later to kill and injure Plaintiffs.

85. Had Magpul or RSR implemented reasonable controls with regard to the sale of their accessories and/or not employed the aforementioned incentive structure, it is more likely than not that River City would not have sold and Sturgeon would not have purchased any accessories for his rifle, and the shooting at Old National Bank would not have been as devastating.

**f. Sturgeon Used the AR-15-Style Rifle, Accessories, and Ammunition Sold to Him by River City During His Attack at Old National Bank.**

86. At approximately 8:15 a.m. on April 10, 2023, Sturgeon entered Old National Bank carrying a gym bag containing the AR-15-style rifle, accessories, and ammunition that he had purchased from River City just six days prior.

87. At approximately 8:32 a.m., Sturgeon began livestreaming on Instagram, placing his cell phone in his shirt-front pocket for the world to see the horrific acts he was about to commit. The Crimson Trace red-dot sight, with which he could shoot his victims with greater accuracy, was attached to the top of his rifle. His left hand gripped the Magpul M-LOK grip, attached to the rifle's forward rail for greater control over the weapon. And the ammunition that would soon injure or kill the Plaintiffs was loaded into one of four Magpul PMAG 30-round LCMs.

88. Sturgeon was clearly a rookie with firearms: he carried the weapon awkwardly and struggled both to charge the weapon and release the safety. According to the LMPD Report, it appeared that Sturgeon "did not have a firm understanding of how to operate his weapon system."

89. With his cell-phone camera ready, Sturgeon walked toward the conference room. On his way, he encountered Dallas Schwartz. Sturgeon pulled the trigger once unsuccessfully before recharging the rifle and firing a single round, which struck Dallas in her leg. Sturgeon left Dallas bleeding on the floor and turned immediately to the conference room.

90. The others in the conference room noticed Sturgeon after he shot Dallas. Sturgeon shot and killed Josh in the hallway as he tried to escape. Sturgeon then closed in on the conference room, firing at the meeting attendees, including Jim Tutt, Julie Andersen, Dana Mitchell, and Jimmy Evans.

91. Sturgeon repositioned himself to continue to shoot the room's occupants, many of whom were now hiding behind anything that could be used as a shield. Still standing outside the conference room, he took different angles and stances to try to hit the people hiding for their lives within. Sturgeon's horrific assault on the room lasted just twenty-three seconds.

92. After the massacre in the conference room, Sturgeon reloaded his rifle with a new LCM. He hid in the hallway before moving to the northeast corner of the office to set up a new firing angle.

93. At approximately 8:38 a.m., the Louisville Police Department received the first of many 9-1-1 calls.

94. First responders arrived at the scene at 8:41 a.m., and Sturgeon fired two shots at the first responding police vehicles. He then shot one round at two people who entered the lobby from the elevator, forcing them back.

95. Over the next forty seconds, Sturgeon paced and began to take aim at the first responding officers to arrive on foot. He opened fire on these officers and struck them both, one in the head. This is also believed to be when Sturgeon fired the shot that hit Jimmy Evans.

96. The shoot-out between the officers and Sturgeon lasted approximately two minutes. During this time Sturgeon fired two more rounds at the young officer whom he'd shot in the head as the officer lay on the ground.

97. At or around 8:43 a.m., police shot and killed Sturgeon.

98. The entire attack—from when Sturgeon fired his first shot to when he was killed by law enforcement—lasted just eight minutes. The LMPD Report indicates that he fired well over forty rounds, during which time he had to perform only one magazine reload.

**g. The Impact of the Shooting on the Plaintiffs and Their Families**

99. The Shooting on April 10, 2023, has irrevocably changed the lives of each of the Plaintiffs.

100. Dana Mitchell was shot in the back and hospitalized for two days. Dana's wound was about ten inches long and took three months to close up. It also became infected, which required the hospital to reopen the wound and repack it every day. Dana suffers from nerve pain, for which she recently underwent a nerve-block injection. In addition to the physical pain, she has suffered and continues to suffer severe emotional distress and PTSD stemming from this attack. She wants "to get to a point where it's not the first thing [she] thinks about every morning, and the last thing [she] thinks about every night."

101. Julie Andersen was shot in the arm and taken to the hospital by a police officer. The gunshot fractured her humerus bone. Because it was too risky for the hospital to remove them all, many bullet fragments remain in her arm, and she may carry them with her for the rest of her life. Though she has completed physical therapy, Julie will have to monitor her body on a permanent basis to prevent lead poisoning from those bullet fragments. Julie has suffered and continues to suffer severe emotional distress stemming from this attack. She suffers from PTSD that impacts her daily life and her ability to participate in activities she once enjoyed, such as dining out and going to the movies.

102. Jimmy Evans was shot in the calf while helping a colleague cross the street. He was taken to the hospital by a good Samaritan. Jimmy's leg bears a significant scar from the path taken by the bullet. He also suffered and continues to suffer severe emotional distress and PTSD stemming from this attack. While he continues to work for Old National Bank, each trip to downtown Louisville brings back the horrific memories of the shooting and the deaths of his friends and coworkers. Not a day goes by that he doesn't think about what happened.



103. Dallas Schwartz, who was shot in the left leg, spent almost a month between the hospital and rehabilitation center, missing time with her three children, before being able to return home. She underwent two surgeries, including having a vein transplanted from her right leg in order to save the other. During her several weeks in a rehabilitation facility, she suffered an infection that required rehospitalization. And after leaving the facility, Dallas required visits from a home health nurse three days a week for several months. She continues to experience discomfort in her left leg every day. Dallas is unable to walk, stand, or sit for extended periods of time in the same position without her leg going numb or tingling. In addition to the physical pain, she has suffered and continues to suffer severe emotional distress stemming from this attack. Dallas suffers from PTSD, which manifests as nightmares and flashbacks to her time hiding in the bathroom stall when she is in confined spaces. These effects keep her from pursuing the activities she once enjoyed, like attending concerts.

104. Karen Tutt lost her husband of 24 years. This loss is catastrophic. Jim was Karen's rock. Encouraging, supportive, kind, and funny, Jim was "the answer to [her] prayer" and the companion with whom she looked forward to spending the rest of her life. Jim was an "amazing" husband and "one of the kindest people you would ever meet." He was dedicated to serving his church and community. Karen has and will continue to experience trauma and tremendous emotional and physical loss from being deprived of her life partner. She also faces new concerns relating to her financial outlook. Without Jim, Karen now must worry about her income, medical insurance, and retirement. In addition to Karen's loss of her husband, Jim's four children and two grandchildren have lost their father and grandfather. Jim loved his family deeply. His children and grandchildren are deprived of the guidance, shared experiences—such as the family vacations so

special to Jim and Karen—love, and support that they had the right to enjoy for years to come. Jim’s death has left a “gaping hole” in Karen’s family and in the hearts of all those who knew him.

105. Jessica Barrick lost her husband of 10 years. Josh was just 40 years old when he was killed, depriving his beloved wife Jessica of the decades of love and companionship they would have shared together. Jessica’s last conversation with Josh—what should have been an ordinary phone call on the way to work, discussing what he’d have for lunch—is now frozen in time. Josh is the first thing that Jessica thinks about when she wakes up, and the last thing she thinks about before going to sleep. There is not a moment of the day that isn’t touched by his absence. Jessica and her children, aged seven and nine, are in therapy to cope with the loss, but both she and the kids will never be the same. In addition to a new fear of some public places, Jessica and Josh’s children have lost their “super-dad”—the person who should be here to watch them grow up, provide support and advice, and share in the joy of their childhood. Josh’s loving family has suffered an unimaginable loss.

**V. CAUSES OF ACTION**

**COUNT I – NEGLIGENT ENTRUSTMENT**

*(By All Plaintiffs Against Defendant River City Firearms, Inc.)*

106. Plaintiffs incorporate and re-allege the above paragraphs as if stated fully herein.

107. On April 4, 2023, River City sold and transferred to Sturgeon the RF-15 assault rifle, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition that he used to carry out his horrific attack on April 10, 2023, at Old National Bank.

108. River City had possession and control of the rifle, ammunition, and accessories at the time that it sold and transferred them to Sturgeon.

109. At all relevant times, River City knew or should have known that its employees and agents were well within their rights, and in fact under an obligation, to use their individual judgment to refuse to sell firearms, ammunition, or accessories to anyone who posed an unreasonable risk of harm to themselves or others.

110. Firearm dealers like River City have a heightened duty to take reasonable steps to prevent the sale of deadly weapons to dangerous individuals. It is the licensed firearm dealer's prerogative—and responsibility—to decline a sale if the prospective purchaser exhibits suspicious behavior suggesting that they plan to harm themselves or others.

111. At the time that River City transferred possession of the rifle, accessories, and ammunition to Sturgeon, it knew or reasonably should have known that he was likely to use these products in a manner involving unreasonable risk of physical injury to himself or others.

112. River City delivered possession of these products to Sturgeon when he was in the midst of an acute mental breakdown that had started the previous day. It was during this breakdown that he decided to commit the shooting, and this continued acute emotional disturbance is what caused Sturgeon's observably strange behavior while at River City.

113. Sturgeon's obvious incompetence with firearms, his selection of a weapon especially ill-suited for him and his purported use, and his suspicious behavior at the point of sale would have alerted a reasonable firearm dealer to the likelihood that Sturgeon would use these products in a manner involving unreasonable risk of physical injury to himself or others; and in fact, Sturgeon did so use them.

114. FFLs like River City are trained to identify red flags indicating suspicious purchasers who may be intent on hurting themselves or others. River City knew or should have

known that lack of knowledge about firearms, nervous behavior, and choosing a firearm that is poorly suited for the customer's stated purposes are all red flags of a potentially dangerous or illegal sale.

115. River City knew or should have known that firearms, as well as accessories designed to increase their effectiveness, should not be supplied to persons who pose a foreseeable risk of harm to themselves or others, by reason of acute mental disturbance, inexperience, or otherwise.

116. Just six days elapsed between River City's sale to Sturgeon of these products—the rifle, vertical grip, red-dot sight, LCMs, and ammunition—and his attack on Plaintiffs.

117. River City is vicariously liable for the actions or inactions of its agents, ostensible agents, or employees committed while in the scope of their agency or employment.

118. River City's negligence was a direct and proximate cause of the deaths and injuries at Old National Bank. Due to the acts and omissions of River City, Sturgeon was able to acquire each of the tools necessary for someone with his complete lack of experience to carry out this devastating attack.

119. As a direct and proximate result of River City's negligent entrustment to Sturgeon of the RF-15, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition, Jim Tutt was injured and died on April 10, 2023. Plaintiff Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Administrator of the Estate of James Tutt, Jr., Plaintiff Karen Tutt is entitled to damages recoverable for the shooting and death of Jim Tutt, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe

emotional distress experienced from the time of his injury until his death, for which Jim Tutt would have been entitled to receive compensation from River City had he survived.

120. As a direct and proximate result of River City's negligent entrustment to Sturgeon of the RF-15, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition, Josh Barrick was injured and died on April 10, 2023. Plaintiff James M. Gilly, Jr., as Executor of the Estate of Joshua Barrick, deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Executor of the Estate of Joshua Barrick, Plaintiff James M. Gilly, Jr. is entitled to damages recoverable for the shooting and death of Josh Barrick, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his injury until his death, for which Josh Barrick would have been entitled to receive compensation from River City had he survived.

121. As a direct and proximate result of River City's negligent entrustment to Sturgeon of the RF-15, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition, Plaintiffs Dana Mitchell, Julie Andersen, James "Jimmy" Evans, and Stephanie "Dallas" Schwartz have sustained and will sustain physical pain, mental suffering, loss of enjoyment of life, anxiety, severe emotional distress, and economic damages, including past and future healthcare expenses.

122. Accordingly, Plaintiffs are entitled to recovery against River City in an amount to be determined at trial.

**COUNT II – NEGLIGENCE**  
***(By All Plaintiffs Against All Defendants)***

123. Plaintiffs incorporate and re-allege the above paragraphs as if stated fully herein.

124. At all relevant times, River City, RSR, and Magpul owed and owe the general duty imposed on all persons and entities to act reasonably and not to expose others to foreseeable risks of injury.

125. In fact, as licensed sellers of firearms and firearm accessories, River City, RSR, and Magpul are subject to a heightened duty of care commensurate with their trade in dangerous weapons and accessories that augment their dangerousness.

126. River City, RSR, and Magpul have a duty to exercise reasonable care to ensure that they do not cause firearm accessories to be possessed by dangerous persons likely to use these products to harm themselves or others. A breach of this duty constitutes negligence.

127. Upon information and belief, at all relevant times, RSR's and Magpul's negligent and reckless conduct included, but was not limited to:

- a. Failing to take reasonable steps to ensure that the retail purchasers of their products were fit to use and possess them, even though Defendants knew or should have known that accessories such as LCMs, red-dot sights, and vertical grips augment the lethality of already dangerous weapons and are favored by mass shooters for this reason; and/or
- b. Failing to establish reasonable controls, including but not limited to: ensuring that the retail dealers selling their products do not have a history of firearm-regulation violations, ensuring that retailers were trained to identify red flags of suspicious transactions (and were in fact following such training), and conducting inspections of retailers to ensure that their products were not being sold to dangerous individuals; and/or

- c. Encouraging the retail sellers of their products to upsell to retail purchasers—regardless of need or suitability—through incentives such as discounted pricing, dealer rebates, rewards programs, and/or other terms contained in distributor or manufacturer agreements.

128. On or before March 15, 2023, RSR sold Magpul M-LOK vertical grips, Crimson Trace red-dot sights, and Magpul PMAG LCMs to River City, a dealer with a history of violations of firearm regulations.

129. Magpul has the right and the market power to determine whom it does business with and who can sell its products.

130. RSR has the right and the market power to determine which dealers it distributes products to.

131. River City has the right to refuse service to anyone.

132. On April 4, 2023, River City sold a Magpul M-LOK vertical grip, a Crimson Trace red-dot sight, and three Magpul PMAG LCMs to Sturgeon.

133. Unlike the components of a firearm, none of these aftermarket accessories is essential to a firearm's capacity to fire a shot. An AR-15-style rifle like the one purchased by Sturgeon is fully capable of firing with a standard ten-round magazine and without the addition of a vertical grip or a red-dot sight.

134. Upon information and belief, Sturgeon did not ask for these accessories.

135. Upon information and belief, River City convinced Sturgeon that he needed to purchase these accessories as part of an “upselling” strategy that places profits over safety.

136. Sturgeon's behavior in the store should have alerted River City to the danger and inappropriateness of these sales.

137. River City should also have noticed that Sturgeon purchased exactly enough ammunition to fill his LCMs—no more, no less. This, along with the other aforementioned red flags, should have alerted a reasonable firearms dealer to the danger of equipping Sturgeon with this suite of accessories.

138. Upon information and belief, possessing the aforementioned accessories emboldened Sturgeon to carry out his planned workplace shooting.

139. Upon information and belief, Sturgeon had never fired a gun before committing this horrific attack and had no familiarity with firearm accessories.

140. The Defendants' actions and omissions were substantial factors in causing Sturgeon to purchase these accessories, without which he would not have shot and injured as many people.

141. Despite his utter inexperience, Sturgeon was able to shoot and kill five people, including Jim Tutt and Josh Barrick, and shoot and injure four others in just twenty-three seconds. It is more likely than not that the control and accuracy afforded by the vertical grip and red-dot sight was the difference between life and death for some of his victims, including Jim Tutt and Josh Barrick, and likely caused some of the grievous injuries suffered by others. Furthermore, Sturgeon would not have been able to shoot Jimmy Evans at all without an extra LCM sold to him by River City.

142. River City's sale of the Magpul M-LOK vertical grip, Crimson Trace red-dot sight, and Magpul PMAG LCMs to Sturgeon constituted a breach of its duty to exercise reasonable care and was a direct and proximate cause of Plaintiffs' injuries.



143. Magpul's and RSR's failure to utilize reasonable controls to ensure that dealers did not sell their lethal products to dangerous individuals constituted a breach of their duty to exercise reasonable care and was a direct and proximate cause of Plaintiffs' injuries.

144. Defendants are vicariously liable for the actions or inactions of their agents, ostensible agents, or employees committed while in the scope of their agency or employment.

145. As a direct and proximate result of Defendants' negligence, Jim Tutt was injured and died on April 10, 2023. Plaintiff Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Administrator of the Estate of James Tutt, Jr., Plaintiff Karen Tutt is entitled to damages recoverable for the shooting and death of Jim Tutt, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his injury until his death, for which Jim Tutt would have been entitled to receive compensation from Defendants had he survived.

146. As a direct and proximate result of Defendants' negligence, Josh Barrick was injured and died on April 10, 2023. Plaintiff James M. Gilly, Jr., as Executor of the Estate of Joshua Barrick, deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Executor of the Estate of Joshua Barrick, Plaintiff James M. Gilly, Jr. is entitled to damages recoverable for the shooting and death of Josh Barrick, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his injury until his death, for which Josh Barrick would have been entitled to receive compensation from Defendants had he survived.

147. As a direct and proximate result of Defendants' negligence, Plaintiffs Dana Mitchell, Julie Andersen, James "Jimmy" Evans, and Stephanie "Dallas" Schwartz have sustained and will sustain physical pain, mental suffering, loss of enjoyment of life, anxiety, severe emotional distress, and economic damages, including past and future healthcare expenses.

148. Accordingly, Plaintiffs are entitled to recovery against Defendants in an amount to be determined at trial.

### **COUNT III – WRONGFUL DEATH**

*(By Plaintiffs Karen Tutt and James Gilly Against All Defendants)*

149. Plaintiffs Karen Tutt and James Gilly incorporate and re-allege the above paragraphs as if fully set forth herein.

150. As a direct and proximate result of the previously alleged conduct, River City, RSR, and Magpul caused the deaths of Jim Tutt and Josh Barrick by their wrongful conduct.

151. At the time of his death, Jim Tutt was survived by his wife, Karen Tutt, and adult children, Aaron Tutt, Karissa Dear Pitcock, Andrew Tutt, and Kariana Mansfield. The aforementioned heirs/next-of-kin suffered injuries including grief, sorrow, and mental anguish. As a direct and proximate result of the premature death of Jim Tutt, his estate also suffered the destruction of his power to labor and earn money. Plaintiff Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., brings an additional action pursuant to Ky. Rev. Stat. Ann. § 411.130 for the wrongful death of Jim Tutt and is entitled to recover damages including, but not limited to, pecuniary injuries, including lost future income, lost earning capacity, and the reasonable value of services.

152. As a direct and proximate result of the premature death of Josh Barrick, his estate also suffered the destruction of his power to labor and earn money. Plaintiff James M. Gilly, Jr.,

as Executor of the Estate of Joshua Barrick, brings an additional action pursuant to Ky. Rev. Stat. Ann. § 411.130 for the wrongful death of Josh Barrick and is entitled to recover damages including, but not limited to, pecuniary injuries, including lost future income, lost earning capacity, funeral expenses, and the reasonable value of services.

**COUNT IV – LOSS OF SPOUSAL CONSORTIUM**  
***(By Plaintiffs Karen Tutt and Jessica Barrick Against All Defendants)***

153. Plaintiffs Karen Tutt and Jessica Barrick incorporate and re-allege the above paragraphs as if fully set forth herein.

154. As a result of the negligence, gross negligence, and reckless conduct of Defendants, Karen Tutt suffered a loss of love and affection of her husband, Jim Tutt.

155. Plaintiff Karen Tutt has suffered and will continue to suffer emotional devastation from the loss of her husband, Jim, including loss of services, assistance, society, companionship, conjugal relationship, and general consortium and therefore also alleges an additional claim for loss of spousal consortium.

156. As a result of the negligence, gross negligence, and reckless conduct of Defendants, Jessica Barrick suffered a loss of love and affection of her husband, Josh Barrick.

157. Plaintiff Jessica Barrick has suffered and will continue to suffer emotional devastation from the loss of her husband, Josh, including loss of services, assistance, society, companionship, conjugal relationship, and general consortium and therefore also alleges an additional claim for loss of spousal consortium.

**COUNT V – LOSS OF PARENTAL CONSORTIUM*****(By Plaintiff Jessica Barrick Against All Defendants)***

158. Plaintiff Jessica Barrick as Parent, Next Friend, and Natural Guardian of minor children C.G.B. and J.P.B. incorporates and re-alleges the above paragraphs as if fully set forth herein.

159. As a result of the negligence, gross negligence, and reckless conduct of Defendants, minor children C.G.B. and J.P.B. suffered a loss of love and affection of their father, Josh Barrick.

160. At the time of his death, Josh Barrick was survived by his minor children, C.G.B. and J.P.B. Plaintiff Jessica Barrick also brings a claim for the wrongful death of Josh Barrick on behalf of his minor children who have suffered the loss of parental consortium, care, companionship, training, and guidance.

**COUNT VI – KY. REV. STAT. § 411.150*****(By Plaintiffs Karen Tutt and Jessica Barrick Against All Defendants)***

161. Plaintiff Karen Tutt, individually, and Plaintiff Jessica Barrick, individually, and as Parent, Next Friend, and Natural Guardian of minor children C.G.B. and J.P.B., incorporate and re-allege the above paragraphs as if fully set forth herein.

162. On April 4, 2023, River City sold Sturgeon an AR-15-style rifle, a Magpul M-LOK vertical grip, Magpul PMAG 30-round magazines, and a red-dot sight.

163. On April 10, 2023, Jim Tutt and Josh Barrick were killed by Sturgeon's wanton and malicious use of a deadly weapon—the AR-15-style rifle that he obtained from River City, equipped with accessories manufactured by Magpul and sold to River City by RSR.

164. Through their previously alleged actions and inactions, Defendants aided or promoted the killing of Jim Tutt and Josh Barrick.

**PUNITIVE DAMAGES**

165. Plaintiffs incorporate and re-allege the above paragraphs as if fully set forth herein.

166. The aforementioned conduct, actions, and inactions of Defendants constituted gross negligence, gross carelessness, or was so grossly reckless or wanton as to warrant an award of punitive damages.

**WHEREFORE**, Plaintiffs, DANA MITCHELL; JULIE ANDERSEN; JAMES “JIMMY” EVANS; STEPHANIE “DALLAS” SCHWARTZ; KAREN TUTT, individually and as Administrator for the Estate of JAMES TUTT, JR., deceased; JESSICA BARRICK, individually and as Parent, Next Friend, and Natural Guardian of minor children C.G.B. and J.P.B.; and JAMES M. GILLY, JR., as Executor for the Estate of JOSHUA BARRICK, deceased, demand a trial by jury and pray for judgment against Defendants RIVER CITY FIREARMS, INC., RSR GROUP, INC., AND MAGPUL INDUSTRIES CORPORATION as follows:

1. Compensatory damages in an amount that is fair and reasonable as established by the evidence;
2. Punitive damages;
3. Prejudgment interest;
4. Postjudgment interest;
5. Costs expended herein, including reasonable attorney’s fees; and
6. Any and all other relief to which Plaintiffs may be entitled.

DATE: April 8, 2024

Respectfully submitted,

/s/ Tad Thomas

Tad Thomas (KY 88577)

Kevin Weis (KY 87977)

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*\*Admitted pro hac vice*

*\*\* Pro hac vice application forthcoming*

**COMMONWEALTH OF KENTUCKY  
JEFFERSON CIRCUIT COURT  
CIVIL ACTION NO.**

***ELECTRONICALLY FILED***

DANA MITCHELL; JULIE ANDERSEN;  
JAMES E. EVANS II; STEPHANIE  
SCHWARTZ; KAREN TUTT, Individually and  
as Administrator of the Estate of JAMES TUTT,  
JR., deceased; JESSICA BARRICK,  
Individually, as Next Friend, and as the Parent  
and Natural Guardian of C.G.B. and J.P.B.; and  
JAMES M. GILLY, JR., as Executor of the  
Estate of JOSHUA BARRICK, deceased;

PLAINTIFFS

V.

RIVER CITY FIREARMS, INC.;

Serve:  
Derrick Meyers  
2915 PRESTON HIGHWAY  
LOUISVILLE, KY 40217

DEFENDANT

**COMPLAINT**

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Dana Mitchell; Julie Andersen; James “Jimmy” Evans; Stephanie “Dallas” Schwartz;  
Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., deceased; Jessica  
Barrick, individually, as Next Friend, and as Parent and Natural Guardian of C.G.B. and J.P.B.;  
and James M. Gilly, Jr., as Executor of the Estate of Joshua Barrick, deceased, by and through  
undersigned counsel, state as follows for their Complaint and Causes of Action against Defendant,  
River City Firearms, Inc. (“River City”):

## I. INTRODUCTION

1. The morning of April 10, 2023, started out like any other at Old National Bank on East Main Street in Louisville. Jim Tutt got ready for work and arrived at the office shortly before 8:30 a.m. It was the day after Easter, and bank employees were in high spirits as they gathered in the conference room for the monthly sales meeting. Josh Barrick happily recounted his weekend at the Masters Tournament, and the upbeat chit-chat turned to his new suntan and souvenir cup. Dana Mitchell took a seat with her back to the glass wall that ran alongside the hallway. Julie Andersen was running a bit late and hoped that she would have time to make coffee before the meeting started. She kept an eye on her watch as coffee trickled out of the Keurig machine—a mundane experience that now inescapably reminds her of the tragedy that soon followed.

2. Dallas Schwartz also recalls a normal start to the morning at her relatively new job at Old National Bank. She went to put her lunch in the kitchen fridge, passing the all-glass conference room and seeing her colleagues assembled inside. When she first saw Connor Sturgeon come out of an office at 8:35 a.m., wearing safety glasses and carrying a gun, she wondered for a split second if this was some sort of drill. He looked at her and said: “It’s time to go.” Sturgeon shot Dallas as soon as she turned toward him, striking her once in the left leg. As Dallas fell, Sturgeon turned and headed purposefully toward the conference room.

3. Unbeknownst to Dallas or any of her colleagues, one week prior, Sturgeon had decided to commit a mass shooting at his workplace. The next day, in the throes of an acute mental health crisis, he walked into River City Firearms. A short while later, he walked out with the firearm favored by mass shooters: an AR-15-style rifle, as well as three extra 30-round large-



capacity magazines, a red-dot sight, a vertical grip, and *just enough* ammunition to load each of his magazines once.

4. Federally licensed firearms dealers (“FFLs”) like River City are trained to spot individuals who are incapable of handling firearms responsibly or may have nefarious intentions. FFLs are instructed by the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) that they are the first line of defense in preventing firearms from falling into the wrong hands, and that they should *not* proceed with suspicious sales. They are trained by the ATF and industry trade groups on certain red flags of suspicious behavior: Does the customer lack any knowledge about firearms? Does the customer not care about the make and model of the firearm he is purchasing? Is the customer behaving oddly or in a nervous manner? Is the customer attempting to buy a gun that is not suitable for his stated purpose? While each of these red flags, on their own, may not be a reason to terminate a transaction, they are each a reason to ask questions of the customer and, if suspicions persist, to not proceed with the sale.

5. These red flags were present in spades on April 4, 2023, when Sturgeon walked into River City with the intention of buying an AR-15 to commit a mass shooting. Eyewitness testimony from within the store confirms that he demonstrated a complete lack of knowledge or experience with firearms and that he spoke in an unusually quiet tone and appeared embarrassed upon making eye contact with others, lowering his head and averting his gaze. A mere twenty minutes spent near Sturgeon left such an impression on one patron that afterward she considered calling the police. What’s more, according to Sturgeon’s writings, he told the clerk that he wanted the firearm because a friend’s home had recently been burglarized, indicating that he wanted to

buy an AR-15 for home defense, a use for which an AR-15 is particularly poorly suited for a novice shooter (something that any responsible and experienced firearm salesman would readily admit).

6. As an FFL, River City has a legal duty to not sell guns to prospective purchasers whom it knows, or reasonably should know, pose an unreasonable risk of harm to themselves or others. And given the red flags that Sturgeon presented at the time of purchase, it was a reckless dereliction of duty for River City to negligently entrust him with an AR-15-style rifle.

7. But not only did River City fail to stop the transaction, it used the opportunity to make additional profit by piling on dangerous accessories that emboldened the novice shooter and made him more deadly: three additional 30-round large-capacity magazines, a red-dot sight to increase the accuracy of his aim, and a vertical grip for greater control over the weapon.

8. While such upselling may be a common and innocuous sales practice in other industries, it is exceedingly dangerous when it involves products that enable a customer to kill faster and more efficiently. This fact should have been obvious to River City given the number of lives that been taken by mass shooters in recent years wielding similarly equipped AR-15-style rifles.

9. Back in the conference room at Old National Bank, the foreseeable and tragic consequences of River City’s negligence were playing out. When Sturgeon shot Dallas, the staff in the monthly sales meeting had just begun to go around the table to share updates. Jimmy Evans had just started speaking when Dana Mitchell saw Sturgeon standing in the hallway with the gun that River City had placed in his hands. She credits that split second of recognition with saving her life, as people on either side of her perished in the attack. Julie heard a gasp and the click of

Sturgeon's gun as he attempted to fire. She couldn't believe that she was about to experience the new national nightmare—a workplace shooting.

10. In the span of a moment, the room fell into chaos. Josh attempted to flee the conference room but was shot and killed by Sturgeon in the hallway. Jimmy saw the exterior glass walls being shattered by gunfire as he sought shelter in a closet in the corner of the room. The smell of gunpowder and the sound of screams and breaking glass filled the air. Julie pushed her chair back and fell to the ground. She crawled backward into a corner and pulled a chair over her body, frantically seeking any cover. Dana crawled under the table and was shot while on the floor. She told herself to stay still and hold her breath so Sturgeon would not know that she was still alive. Julie played dead and tried not to move while a colleague next to her pleaded with Sturgeon.

11. After a couple of minutes, the room got quiet—no one moved or spoke. The survivors lay there for what felt like an eternity. “Seconds seemed like minutes; minutes seemed like hours,” recalls Dana.

12. Outside the conference room, Dallas had been able to make it to the bathroom after being shot, leaving a trail of blood in her wake. She sought shelter in a stall after realizing that the main bathroom door did not lock. She called 9-1-1, but couldn't get through. Dallas remembers sitting down and seeing a “massive amount” of her own blood on the floor. She used her scarf to fashion a tourniquet before calling her mother to tell her that she was bleeding out. She heard so many gunshots that she was sure none of her colleagues had survived.

13. Relief finally came for the survivors still inside the office with the sound of police sirens. Dana and Julie heard a barrage of different-sounding gunshots coming from a different part of the building and realized that law enforcement was exchanging fire with Sturgeon.

14. Jimmy, meanwhile, had a chance to flee from his hiding spot after Sturgeon’s attack on the conference room ended. He sought safety near a building across East Main Street, but went back to help an injured colleague who was struggling to cross the road. Jimmy heard three or four shots and realized he’d been hit in the calf.

15. Two minutes later, all gunfire finally ceased. Law-enforcement officers were able to lead Dana and Julie out of the conference room. But their relief was mingled with horror as they were forced to walk past the bodies of their coworkers and friends. “We knew they were gone,” remembers Dana. To exit the building, the survivors had to step over Sturgeon’s lifeless body. The lobby was piled high with broken glass generated by the shootout with law enforcement, in which Sturgeon had shot two of the responding officers. One of these officers, shot in the head, had graduated from the police academy just ten days prior.

16. Life has been irreparably changed for everyone who was present at Old National Bank on the morning of April 10, 2023. Recovery is ongoing for the myriad physical injuries suffered by the survivors. Even harder to treat are the emotional injuries that pervade their daily lives—the PTSD, the fear of loud noises and crowded spaces, the grief at losing their friends and colleagues, the survivor’s guilt. And the terrible loss endured by the families of the deceased, including Jim Tutt and Josh Barrick, beloved husbands and fathers both, is impossible to treat.

17. Sturgeon pulled the trigger of the assault rifle that killed, wounded, and traumatized the employees—his coworkers—at Old National Bank. But River City’s negligence was also a substantial cause of harm to each of the Plaintiffs. Sturgeon should never have been able to acquire the rifle he used to carry out this attack, much less the full suite of equipment that emboldened and enabled him to wreak this level of devastation. An experienced FFL like River City should have

carefully assessed the red flags that Sturgeon so obviously presented, and should have cut him off, rather than choosing to take his money and look the other way.

**II. PARTIES**

18. Plaintiff Dana Mitchell, a resident of Jefferson County, Kentucky, was present at Old National Bank in Louisville during the shooting and was shot and injured by Sturgeon.

19. Plaintiff Julie Andersen, a resident of Jefferson County, Kentucky, was present at Old National Bank in Louisville during the shooting and was shot and injured by Sturgeon.

20. Plaintiff James (“Jimmy”) Evans, a resident of Jefferson County, Kentucky, was present in the conference room throughout the shooting. He was shot and injured by Sturgeon outside the building during Sturgeon’s shootout with law enforcement.

21. Plaintiff Stephanie “Dallas” Schwartz, a resident of Clark County, Indiana, was present at Old National Bank in Louisville during the shooting and was shot and injured by Sturgeon.

22. Plaintiff Karen Tutt is a resident of Jefferson County, Kentucky and was legally married to James Tutt, Jr., (“Jim Tutt”), at all relevant times hereto. Jim Tutt, a resident of Jefferson County, Kentucky, was murdered by Sturgeon on April 10, 2023, in Louisville, Jefferson County, Kentucky. He was 64 years old and a pillar of his community: a leading supporter of the effort to revitalize the area around the bank, an active member of his church, and most importantly a beloved husband and father. On June 29, 2023, Karen Tutt was duly qualified and appointed by the Jefferson District Probate Court as the Administrator of Jim’s Estate. (See Exhibit A). Karen Tutt brings this action individually and on behalf of the Estate of James Tutt, Jr.



*Pictured above: Jim and Karen Tutt (left); Jim and Karen with children and grandchildren (right).*

23. Plaintiff Jessica Barrick, a resident of Jefferson County, Kentucky, was legally married to and the spouse of Joshua (“Josh”) Barrick at all times relevant hereto. Josh Barrick, a resident of Jefferson County, Kentucky, was murdered by Sturgeon on April 10, 2023, in Louisville, Jefferson County, Kentucky. He was 40 years old. In addition to Jessica, Josh is survived by his minor children, C.G.B., nine years old, and J.P.B., seven years old. Josh was a devoted husband and father and was known as a warm and generous friend to all. His kids knew him as the “ultimate dad.” He coached their sports, took them to mass, and always took the time to share breakfasts in the morning. Josh was also a dedicated and generous member of his church. Jessica Barrick brings this action individually and as parent of their minor children.



*Pictured above: Josh Barrick (left); Josh and Jessica with their children (right).*

24. On June 19, 2023, Plaintiff James M. Gilly, Jr. was duly qualified and appointed by the Jefferson District Probate Court, Case No. 23-P-002168, as the Executor of Josh's Estate. (See Exhibit B.)

25. Defendant River City Firearms, Inc. is a for-profit Kentucky corporation that on April 4, 2023, sold and transferred to Sturgeon the AR-15-style rifle, accompanying accessories, and ammunition that Sturgeon used to commit his heinous act at Old National Bank. River City's principal place of business is 2915 Preston Highway, Louisville, Kentucky 40217, and it may be served with process by serving its registered agent, Derrick Meyers at 2915 Preston Highway, Louisville, Kentucky 40217.

### **III. JURISDICTION AND VENUE**

26. Plaintiff have been damaged in an amount in excess of any minimum dollar amount necessary to establish jurisdiction in this Court.

27. This Court has jurisdiction over River City because it is incorporated and headquartered in Kentucky.

28. Venue is proper in this Court under Ky. Rev. Stat. Ann. §§ 454.210 and 452.460, because the transactions and occurrences that form the basis for this Complaint occurred in Jefferson County, the subject tort was committed in Jefferson County, and River City resides in and committed the subject torts in Jefferson County.

#### IV. GENERAL ALLEGATIONS

a. **River City Knew, or Should Have Known, that the AR-15 Is the Preferred Firearm for Mass Shooters.**

29. Derrick Meyers and his wife Tami founded River City Firearms in December 2011. In July 2012, a 24-year-old man attacked a movie theater in Aurora, Colorado, with an arsenal that included an AR-15-style rifle, killing 12 and injuring 58. Five months later, a 20-year-old walked into Sandy Hook Elementary School carrying an AR-15 and killed 26 people, including 20 children. As Meyers later recounted to reporters, that's when business really took off.<sup>1</sup>

30. Since 2012, AR-15-style rifles equipped with large-capacity magazines have become the go-to weapon for young men intent on causing mass destruction. These weapons, originally designed to be extremely effective in combat, allow inexperienced shooters to kill many people quickly and easily. For this reason, mass shooters from Sandy Hook to San Bernardino to Parkland to Uvalde to Buffalo have, time and time again, turned to these weapons to increase their carnage—a fact that River City and its employees knew, or should have known.

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<sup>1</sup> Jacob Ryan, *Kentucky Leads U.S. in Firearm Background Checks*, Louisville Pub. Media (Dec. 4, 2015, 12:05 PM), <https://www.lpm.org/news/2015-12-04/kentucky-leads-u-s-in-firearm-background-checks>; Adam Shaw, *Gun Buys, Applications Likely to Surge as Pols Push Gun Control Laws*, Fox News, <https://www.foxnews.com/politics/gun-buys-applications-likely-to-surge-as-pols-push-gun-control-laws> (May 2, 2016, 3:32 PM).



31. In fact, 11 of this country’s 15 largest mass shootings since 2012—including the shootings in Aurora and at Sandy Hook—were carried out with AR-15-style firearms. Each of them received widespread press coverage.

- On December 2, 2015, 36 people were shot and 14 killed at a workplace event in San Bernardino, California.
- On October 1, 2017, 471 people were shot and 60 killed at a country-music concert in Las Vegas, Nevada.
- On November 5, 2017, 45 people were shot and 25 killed, including 8 children and a pregnant woman, at a church service in Sutherland Springs, Texas.
- On February 14, 2018, 34 people were shot and 17 killed, including 14 students, at a high school in Parkland, Florida.
- On August 4, 2019, 26 people were shot and 9 killed on a night out in downtown Dayton, Ohio.
- On August 31, 2019, 32 people were shot and 7 killed in a shooting spree in the Midland–Odessa metropolitan area in Texas.
- On May 24, 2022, 38 people were shot and 21 killed, including 19 fourth-graders, in an elementary school in Uvalde, Texas.
- On July 4, 2022, 55 people were shot and 7 killed at an Independence Day parade in Highland Park, Illinois.
- On November 19, 2022, 22 people were shot and 5 killed at a nightclub in Colorado Springs, Colorado.

32. In addition to their high rates of fire, AR-15-style rifles discharge rounds that travel much faster than handgun bullets. This means that these bullets have more kinetic energy, so when the bullet hits a person, it causes more lethal damage to the human body. While handgun bullets typically travel in a linear path through the body and create relatively small entry and exit wounds, AR-15 rounds hit the human body with such speed that they can shred organs, destroy large swaths

of tissue, and leave exit wounds the size of an orange. Medical professionals describe AR-15 rounds as leaving not bullet holes but cavities within the body.

33. As an experienced FFL, River City knew, or had reason to know, all these facts on April 4, 2023, when Sturgeon came into the store. In fact, Derrick Meyers keeps abreast of how mass shootings impact both his bottom line and potential gun regulations. In the aftermath of the mass shooting in San Bernardino, Meyers spoke to numerous reporters about the impact of mass shootings on gun sales, and declared, “Business is very, very good.”<sup>2</sup> He told another reporter, “We are so busy right now that I don’t know if I’m coming or going.”<sup>3</sup>

**b. River City Was Aware of Its Responsibility to Decline Dangerous Sales.**

34. River City, like all FFLs, has a responsibility to prevent firearms and deadly accessories from falling into dangerous hands. As the ATF emphasizes, FFLs are the “first line of defense in preventing firearms from getting into the hands of criminals.”<sup>4</sup>

35. The ATF, the National Shooting Sports Foundation (“NSSF”), and private compliance consultants make available a myriad of resources that teach FFLs how to identify and prevent dangerous firearms sales. These resources include newsletters, booklets, webinars, videos, and in-person training.

36. These resources all have two recommendations in common: First, dealers should ask about the intended use of the firearm—both to identify any mismatch between the purported use and the firearm selected and as an opportunity to assess the customer’s behavior. Second, these

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<sup>2</sup> Ryan, *supra* note 1.

<sup>3</sup> Shaw, *supra* note 1.

<sup>4</sup> *Best Practices*, FFL Newsletter (ATF), Sept. 2013, at 2, <https://www.atf.gov/firearms/docs/newsletter/federal-firearms-licensees-newsletter-september-2013-volume-1/download>.

resources tell dealers that they have the right and the obligation to decline a sale if something doesn't feel right. It is an FFL's prerogative and responsibility to err on the side of caution to prevent firearms from falling into dangerous hands.

37. Additionally, these materials specifically warn FFLs to look out for certain warning signs, including customers who appear nervous or uneasy or avoid eye contact; customers who are unfamiliar with the firearms that they are seeking to purchase; and customers whose stated intentions are inconsistent with the firearms they choose. These are well-known red flags for illegal behavior in the firearms industry, and upon information and belief, River City was aware of these red flags and knew or should have known to look out for them.

38. In 2016, the Louisville ATF field office identified River City as a candidate for a "Top 100 trace" compliance inspection, meaning that it was a top source of crime guns, and accordingly, in 2017, the ATF inspected River City to ensure compliance with federal laws and regulations.

39. During the inspection, the ATF identified and brought to River City's attention numerous possible straw purchasers, firearms traffickers, and one convicted felon who had bought, or attempted to buy, firearms at River City.

40. The ATF also identified nine separate categories of violations by River City, including failing to obtain accurate transaction forms and failing to comply with reporting requirements. These violations resulted in a warning letter from the ATF, which reminded River City that its compliance with federal regulations is critical to "reduc[ing] violent crime and protect[ing] the public."

41. At the end of the inspection, the ATF reviewed River City’s legal obligations with representatives of the business, including owner Derrick Meyers. Meyers subsequently signed an Acknowledgment of Federal Firearms Regulations, recognizing that River City was responsible for understanding and complying with laws and regulations applicable to the sale of firearms.

42. River City was thus aware of its responsibilities under federal law as an FFL, its past failure to effectively prevent its firearms from being obtained by criminals, and its obligation to follow all applicable laws and guidance moving forward.

**c. River City Ignored Numerous Red Flags When It Sold Connor Sturgeon an Assault Rifle and Deadly Accessories.**

43. On Monday, April 3, 2023, Connor Sturgeon decided to carry out a mass shooting. He would later write in his journal, “[s]omething snapped on Monday.” Like so many young men before him, he decided to use an AR-15 to perpetrate his planned heinous act.

44. The next day, Sturgeon walked into River City. Unlike the trained and experienced employees of the store, Sturgeon was a complete novice with firearms. As a witness in the store recounted, an employee had to teach Sturgeon how to perform basic functions with the gun, such as how to load it, how to hold it, and how to use its various features. It was obvious to the witness that Sturgeon had never handled a gun before. Sturgeon also commented about the high cost of the firearm and accessories—despite purchasing one of the cheapest AR-15-style rifles on the market—further displaying his inexperience and ignorance about firearms.

45. In addition to his obvious inexperience, Sturgeon behaved oddly at the store. He spoke very quietly with a salesperson, and upon making eye contact with another patron, averted his gaze and hung his head in evident shame or embarrassment. So strong were the red flags

displayed by Sturgeon that upon exiting the store the other patron considered contacting the authorities herself.

46. According to a letter that he wrote his parents later that week, Sturgeon told the salesperson at River City that he wanted a firearm because a friend’s home had recently been broken into, suggesting that he needed the firearm for home defense.

47. Because its high-powered rounds can easily penetrate walls, firing an AR-15-style rifle inside a home dramatically increases the danger to innocent people elsewhere in the residence or in neighboring apartments as compared to the use of a handgun. Additionally, an AR-15 weighs more than twice as much as a handgun and requires two hands to aim and fire, making it more cumbersome to use at a moment’s notice and in stressful conditions, such as during a home invasion. And many handguns can be obtained for much less money than an AR-15. Accordingly, an apparent novice like Sturgeon, who expressed concern about the price of the weapon he was buying, would be unlikely to seek out an AR-15-style rifle for home defense.<sup>5</sup> Therefore, River City knew, or reasonably should have known, that, under all the circumstances, an AR-15-style rifle was not a suitable choice for home defense for this purchaser.

48. Sturgeon’s statements and demeanor should have alerted River City to the likelihood that he was planning to use the weapon not for self-defense but, more likely than not, in a manner posing an unreasonable risk of harming others.

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<sup>5</sup> As the Supreme Court observed in *District of Columbia v. Heller*, there are “many reasons” a handgun is “the quintessential” self-defense weapon:

It is easier to store in a location that is readily accessible in an emergency; it cannot easily be redirected or wrestled away by an attacker; it is easier to use for those without the upper-body strength to lift and aim a long gun; it can be pointed at a burglar with one hand while the other hand dials the police.

554 U.S. 570, 629 (2008).

49. Despite these red flags, River City went through with the transaction and sold Sturgeon a Radical Firearms AR-15-style rifle named the “RF-15.” On April 10, 2023, when news of the shooting broke, the other patron from River City turned to her husband and said, “I bet it’s that kid from the store.” This bystander, who never even spoke to Sturgeon, could nevertheless tell that he was a troubled man who should not have been entrusted with an AR-15. River City, with years of training and a greater opportunity to assess Sturgeon, had the opportunity and responsibility to decline to sell him an AR-15-style rifle.

50. FFLs like River City are trained by the ATF to be the “first line of defense” to prevent firearms from falling in the wrong hands. River City failed in its obligation that day. As a direct and foreseeable result of this failure, the Plaintiffs were killed or grievously injured.

**d. The Accessories that River City Sold Sturgeon Made Him More Deadly.**

51. Not only did River City sell Sturgeon the AR-15-style rifle that he used to terrorize his colleagues—it also sold him an entire suite of accessories that made the massacre more deadly than it otherwise would have been: three additional large-capacity Magpul PMAG magazines, a Magpul M-LOK vertical grip (used to enhance one’s stability and control with a rifle), and a Crimson Trace red-dot sight (which increases one’s accuracy while firing).

ADDWO  
No. 98 AN  
DATE 4/4/2023  
ORDER NO.

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
CITY, STATE, ZIP \_\_\_\_\_

SOLD BY \_\_\_\_\_  
 CASH     C.O.D.     PAID OUT  
 CHARGE     MERCHANDISE RETURNED

QUANTITY	DESCRIPTION	PRICE	AMOUNT
1	Radical Firearms RF-15 21-089424		499.99
6	Box 5.56	@	12.99
1	M-1ok grip		22.95
3	Pmag	@	12.99
1	CT Red dot		79.99
			719.72
			43.18
			762.90

SIGNATURE PAD

© Anderson NC1581 ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL. 01-11

*Pictured above: Sturgeon’s receipt from River City. Image taken from LMPD Report.*

52. Upon information and belief, an employee of River City encouraged Sturgeon to purchase the vertical grip, the red-dot sight, and/or the large-capacity magazines that he used in the attack. A first-time gun user like Sturgeon would not have known to ask for these accessories. Moreover, the report of the Louisville Metro Police (“LMPD Report”) indicates that prior to his purchases on April 4 Sturgeon never conducted Internet searches about firearms or related products.

53. Given the numerous red flags that Sturgeon raised during the sale, it was negligent for River City to provide him with these additional accessories that made him even more deadly.

54. As River City knew, or reasonably should have known, a vertical grip and red-dot sight are designed to increase a shooter’s control and accuracy.

55. When an AR-15-style rifle is fired, propellant gases push the bullet down the barrel before being redirected back toward the bolt carrier—the component that ejects the spent ammunition casings and prepares subsequent rounds for firing. The gas drives the bolt carrier forward so it can strip a fresh round from the top of the magazine and into the chamber, making the rifle ready to fire again. The force created from this process—essentially a controlled explosion—results in a rearward thrust referred to as “recoil” or “kickback.”



*Pictured above: Magpul M-LOK MVG Vertical Grip. Images taken from Magpul website.*

56. A vertical grip, pictured above, provides the shooter with greater stability in the face of this kinetic force. The grip is affixed to the rifle’s lower rail for the shooter to grasp, reducing recoil and allowing for greater control—especially during the rapid fire that AR-15-style rifles are capable of. The model pictured above is the product that River City sold to Sturgeon.





*Pictured above: CTS-25 Compact Red Dot Sight. Product photo (left); consumer image (right).*

57. A red-dot sight, pictured above, is mounted atop a rifle. Originally designed for shooting competitions, red-dot sights project a small red aiming dot on a clear viewing window. To aim, shooters simply need to superimpose the aiming dot on their intended target. A red-dot sight creates a fast and easy-to-use aiming system that is particularly effective in close-range engagements.

58. Consequently, red-dot sights make it easier for mass shooters to target their victims with deadly accuracy. Of the aforementioned eleven most destructive mass shootings since 2012 that involved AR-15s, shooters used this type of sight in at least nine: Aurora, Colorado Springs, Dayton, Las Vegas, Midland–Odessa, Parkland, San Bernardino, Sutherland Springs, and Uvalde.

59. Magazines are ammunition-feeding devices that contain the unfired rounds. Large-capacity magazines (“LCMs”) are magazines capable of holding more than ten rounds of ammunition. The larger the magazine’s capacity, the more rounds the shooter can fire before having to reload his weapon. The thirty-round Magpul LCMs sold to Sturgeon are pictured below.



*Pictured above: Magpul PMAG 30-Round Magazine. Images taken from Magpul website.*

60. LCMs were used in all ten of the most destructive mass shootings since 2012 that were committed with an AR-15 for which the magazine type is known. The LCM used by the mass shooter in Dayton allowed him to shoot twenty-six victims in just thirty-two seconds. The thirty- and forty-round LCMs used by the mass shooter in Parkland enabled him to shoot his first twenty-four victims in less than two minutes, and his next ten victims in forty-five seconds.

61. The few seconds that it takes for a shooter to change magazines can mean the difference between life and death. In the Tucson shooting that wounded then-Representative Gabrielle Giffords, for example, bystanders were able to tackle and incapacitate the shooter once he stopped to load another magazine into his weapon.

62. LCMs make mass shootings more deadly. From 2015 to 2022, the 29 mass shootings that verifiably involved the use of LCMs resulted in 34.9 people shot, 12.3 people killed, and 22.6 people wounded on average per incident, compared to an average of 7.2 people shot, 4.9

people killed, and 2.3 people wounded in the 19 mass shootings that did not involve LCMs.<sup>6</sup> This translates to more than twice as many people killed and nearly ten times as many people wounded per shooting on average.

63. These accessories sold to Sturgeon by River City emboldened him to carry out his heinous act and resulted in more carnage at Old National Bank than Sturgeon would have otherwise caused.

64. After he left the store, Sturgeon neither visited a gun range nor searched the Internet for information about how to use a firearm. His handling of the rifle during the attack confirms that he lacked a firm understanding of how to operate the weapon. When he encountered his first victim, for instance, he pulled the trigger without successfully discharging a round. Yet, with all the deadly accessories sold to him by River City, he was still able to kill five people and injure eight others. The LMPD Report describes Sturgeon “taking different stances/angles” in order to hit the occupants of the conference room—an approach made possible by the accuracy and control provided by the sight and grip.

65. Sturgeon’s attack took place in extremely close quarters, particularly his assault on the conference room. New shooters often have difficulty aiming and using their firearms in confined spaces. Even special forces operators consistently train in hallways and “shoot houses” to be able to fire accurately in such spaces.

66. Sturgeon only had to perform one single magazine reload during the attack. He used most or all of the first LCM in his twenty-three-second assault on the conference room, firing

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<sup>6</sup> *Assault Weapons and High-Capacity Magazines*, Everytown Rsch. & Pol’y (Mar. 22, 2019), <https://everytownresearch.org/report/assault-weapons-and-high-capacity-magazines/> (last updated May 24, 2023).

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between 25 and 30 rounds out of the 30-round magazine. Despite Sturgeon's complete lack of experience, twenty-three seconds was enough time for him to shoot and kill five people, including Jim Tutt and Josh Barrick, and to injure Julie Andersen, Dana Mitchell, and Dallas Schwartz.

67. He then reloaded with a fresh LCM before opening fire on law enforcement and Jimmy Evans. After reloading, Sturgeon shot approximately twelve more rounds, including firing the shot that struck Jimmy while he tried to help his coworker cross the street to safety. If River City had not sold Sturgeon this extra LCM, Sturgeon would not have been able to continue firing. Instead, bullets continued to rain down on innocents until Sturgeon was incapacitated.

68. Without the deadly accessories that River City upsold to Sturgeon on April 4, 2023, he would not have been able to inflict as much injury and terror as he did.

**e. Sturgeon Used the AR-15-Style Rifle, Accessories, and Ammunition Sold to Him by River City During His Attack at Old National Bank.**

69. At approximately 8:15 a.m. on April 10, 2023, Sturgeon entered Old National Bank carrying a gym bag containing the AR-15-style rifle, accessories, and ammunition that he had purchased from River City just six days prior.

70. At approximately 8:32 a.m., Sturgeon began livestreaming on Instagram, placing his cell phone in his shirt-front pocket for the world to see the horrific acts he was about to commit. The Crimson Trace red-dot sight, with which he could shoot his victims with greater accuracy, was attached to the top of his rifle. His left hand gripped the Magpul M-LOK grip, attached to the rifle's forward rail for greater control over the weapon. And the ammunition that would soon injure or kill the Plaintiffs was loaded into one of four Magpul PMAG 30-round LCMs.

71. Sturgeon was clearly a rookie with firearms: he carried the weapon awkwardly and struggled both to charge the weapon and release the safety. According to the LMPD Report, it appeared that Sturgeon “did not have a firm understanding of how to operate his weapon system.”

72. With his cell-phone camera ready, Sturgeon walked toward the conference room. On his way, he encountered Dallas Schwartz. Sturgeon pulled the trigger once unsuccessfully before recharging the rifle and firing a single round, which struck Dallas in her leg. Sturgeon left Dallas bleeding on the floor and turned immediately to the conference room.

73. The others in the conference room noticed Sturgeon after he shot Dallas. Sturgeon shot and killed Josh in the hallway as he tried to escape. Sturgeon then closed in on the conference room, firing at the meeting attendees, including Jim Tutt, Julie Andersen, Dana Mitchell, and Jimmy Evans.

74. Sturgeon repositioned himself to continue to shoot the room’s occupants, many of whom were now hiding behind anything that could be used as a shield. Still standing outside the conference room, he took different angles and stances to try to hit the people hiding for their lives within. Sturgeon’s horrific assault on the room lasted just twenty-three seconds.

75. After the massacre in the conference room, Sturgeon reloaded his rifle with a new LCM. He hid in the hallway before moving to the northeast corner of the office to set up a new firing angle.

76. At approximately 8:38 a.m., the Louisville Police Department received the first of many 9-1-1 calls.

77. First responders arrived at the scene at 8:41 a.m., and Sturgeon fired two shots at the first responding police vehicles. He then shot one round at two people who entered the lobby from the elevator, forcing them back.

78. Over the next forty seconds, Sturgeon paced and began to take aim at the first responding officers to arrive on foot. He opened fire on these officers and struck them both, one in the head. This is also believed to be when Sturgeon fired the shot that hit Jimmy Evans.

79. The shoot-out between the officers and Sturgeon lasted approximately two minutes. During this time Sturgeon fired two more rounds at the young officer whom he'd shot in the head as the officer lay on the ground.

80. At or around 8:43 a.m., police shot and killed Sturgeon.

81. The entire attack—from when Sturgeon fired his first shot to when he was killed by law enforcement—lasted just eight minutes. The LMPD Report indicates that he fired well over forty rounds, during which time he had to perform only one magazine reload.

#### **f. The Impact of the Shooting on the Plaintiffs and Their Families**

82. The Shooting on April 10, 2023, has irrevocably changed the lives of each of the Plaintiffs.

83. Dana Mitchell was shot in the back and hospitalized for two days. Dana's wound was about ten inches long and took three months to close up. It also became infected, which required the hospital to reopen the wound and repack it every day. Dana suffers from nerve pain, for which she recently underwent a nerve-block injection. In addition to the physical pain, she has suffered and continues to suffer severe emotional distress and PTSD stemming from this attack.

She wants “to get to a point where it’s not the first thing [she] thinks about every morning, and the last thing [she] thinks about every night.”

84. Julie Andersen was shot in the arm and taken to the hospital by a police officer. The gunshot fractured her humerus bone. Because it was too risky for the hospital to remove them all, many bullet fragments remain in her arm, and she may carry them with her for the rest of her life. Though she has completed physical therapy, Julie will have to monitor her body on a permanent basis to prevent lead poisoning from those bullet fragments. Julie has suffered and continues to suffer severe emotional distress stemming from this attack. She suffers from PTSD that impacts her daily life and her ability to participate in activities she once enjoyed, such as dining out and going to the movies.

85. Jimmy Evans was shot in the calf while helping a colleague cross the street. He was taken to the hospital by a good Samaritan. Jimmy’s leg bears a significant scar from the path taken by the bullet. He also suffered and continues to suffer severe emotional distress and PTSD stemming from this attack. While he continues to work for Old National Bank, each trip to downtown Louisville brings back the horrific memories of the shooting and the deaths of his friends and coworkers. Not a day goes by that he doesn’t think about what happened.

86. Dallas Schwartz, who was shot in the left leg, spent almost a month between the hospital and rehabilitation center, missing time with her three children, before being able to return home. She underwent two surgeries, including having a vein transplanted from her right leg in order to save the other. During her several weeks in a rehabilitation facility, she suffered an infection that required rehospitalization. And after leaving the facility, Dallas required visits from a home health nurse three days a week for several months. She continues to experience discomfort





time. Josh is the first thing that Jessica thinks about when she wakes up, and the last thing she thinks about before going to sleep. There is not a moment of the day that isn't touched by his absence. Jessica and her children, aged seven and nine, are in therapy to cope with the loss, but both she and the kids will never be the same. In addition to a new fear of some public places, Jessica and Josh's children have lost their "super-dad"—the person who should be here to watch them grow up, provide support and advice, and share in the joy of their childhood. Josh's loving family has suffered an unimaginable loss.

V. **CAUSES OF ACTION**

**COUNT I – NEGLIGENT ENTRUSTMENT**

*(By All Plaintiffs Against Defendant River City Firearms, Inc.)*

89. Plaintiffs incorporate and re-allege the above paragraphs as if stated fully herein.

90. On April 4, 2023, River City sold and transferred to Sturgeon the RF-15 assault rifle, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition that he used to carry out his horrific attack on April 10, 2023, at Old National Bank.

91. River City had possession and control of the rifle, ammunition, and accessories at the time that it sold and transferred them to Sturgeon.

92. At all relevant times, River City knew or should have known that its employees and agents were well within their rights, and in fact under an obligation, to use their individual judgment to refuse to sell firearms, ammunition, or accessories to anyone who posed an unreasonable risk of harm to themselves or others.

93. Firearm dealers like River City have a heightened duty to take reasonable steps to prevent the sale of deadly weapons to dangerous individuals. It is the licensed firearm dealer's

prerogative—and responsibility—to decline a sale if the prospective purchaser exhibits suspicious behavior suggesting that they plan to harm themselves or others.

94. At the time that River City transferred possession of the rifle, accessories, and ammunition to Sturgeon, it knew or reasonably should have known that he was likely to use these products in a manner involving unreasonable risk of physical injury to himself or others.

95. River City delivered possession of these products to Sturgeon when he was in the midst of an acute mental breakdown that had started the previous day. It was during this breakdown that he decided to commit the shooting, and this continued acute emotional disturbance is what informed Sturgeon’s observably strange behavior while at River City.

96. Sturgeon’s obvious incompetence with firearms, his selection of a weapon especially ill-suited for him and his purported use, and his suspicious behavior at the point of sale would have alerted a reasonable firearm dealer to the likelihood that Sturgeon would use these products in a manner involving unreasonable risk of physical injury to himself or others; and in fact, Sturgeon did so use them.

97. FFLs like River City are trained to identify red flags indicating suspicious purchasers who may be intent on hurting themselves or others. River City knew or should have known that lack of knowledge about firearms, nervous behavior, and choosing a firearm that is poorly suited for the customer’s stated purposes are all red flags of a potentially dangerous or illegal sale.

98. River City knew or should have known that firearms, as well as accessories designed to increase their effectiveness, should not be supplied to persons who pose a foreseeable

risk of harm to themselves or others, by reason of acute mental disturbance, inexperience, or otherwise.

99. Just six days elapsed between River City's sale to Sturgeon of these products—the rifle, vertical grip, red-dot sight, LCMs, and ammunition—and his attack on Plaintiffs.

100. River City is vicariously liable for the actions or inactions of its agents, ostensible agents, or employees committed while in the scope of their agency or employment.

101. River City's negligence was a direct and proximate cause of the deaths and injuries at Old National Bank. Due to the acts and omissions of River City, Sturgeon was able to acquire each of the tools necessary for someone with his complete lack of experience to carry out this devastating attack.

102. As a direct and proximate result of River City's negligent entrustment to Sturgeon of the RF-15, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition, Jim Tutt was injured and died on April 10, 2023. Plaintiff Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Administrator of the Estate of James Tutt, Jr., Plaintiff Karen Tutt is entitled to damages recoverable for the shooting and death of Jim Tutt, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his injury until his death, for which Jim Tutt would have been entitled to receive compensation from River City had he survived.

103. As a direct and proximate result of River City's negligent entrustment to Sturgeon of the RF-15, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition, Josh Barrick was injured and died on April 10, 2023. Plaintiff James M. Gilly,

Jr., as Executor of the Estate of Joshua Barrick, deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Executor of the Estate of Joshua Barrick, Plaintiff James M. Gilly, Jr. is entitled to damages recoverable for the shooting and death of Josh Barrick, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his injury until his death, for which Josh Barrick would have been entitled to receive compensation from River City had he survived.

104. As a direct and proximate result of River City's negligent entrustment to Sturgeon of the RF-15, Magpul M-LOK vertical grip, Crimson Trace red-dot sight, Magpul PMAG LCMs, and ammunition, Plaintiffs Dana Mitchell, Julie Andersen, James "Jimmy" Evans, and Stephanie "Dallas" Schwartz have sustained and will sustain physical pain, mental suffering, loss of enjoyment of life, anxiety, severe emotional distress, and economic damages, including past and future healthcare expenses.

105. Accordingly, Plaintiffs are entitled to recovery against River City in an amount to be determined at trial.

### **COUNT II – NEGLIGENCE**

***(By All Plaintiffs Against Defendant River City Firearms, Inc.)***

106. Plaintiffs incorporate and re-allege the above paragraphs as if stated fully herein.

107. At all relevant times, River City owed and owes the general duty imposed on all persons and entities to act reasonably and not to expose others to foreseeable risks of injury.

108. In fact, as a licensed seller of firearms and related products, River City is subject to a heightened duty of care commensurate with its trade in inherently dangerous weapons.



118. Upon information and belief, Sturgeon had never fired a gun before committing this horrific attack. Without the accessories that River City, on information and belief, encouraged Sturgeon to purchase, he would not have shot and injured as many people.

119. Despite his utter inexperience, Sturgeon was able to shoot and kill five people, including Jim Tutt and Josh Barrick, and shoot and injure four others in just twenty-three seconds. It is more likely than not that the control and accuracy afforded by the vertical grip and red-dot sight was the difference between life and death for some of his victims, including Jim Tutt and Josh Barrick, and likely caused the grievous injuries suffered by others. Furthermore, Sturgeon would not have been able to shoot Jimmy Evans at all without an extra LCM sold to him by River City.

120. River City’s sale of the Magpul M-Lok vertical grip, Crimson Trace red-dot sight, and Magpul PMAG LCMs to Sturgeon constituted a breach of its duty to exercise reasonable care and was a direct and proximate cause of Plaintiffs’ injuries.

121. River City is vicariously liable for the actions or inactions of its agents, ostensible agents, or employees committed while in the scope of their agency or employment.

122. As a direct and proximate result of River City’s negligence, Jim Tutt was injured and died on April 10, 2023. Plaintiff Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Administrator of the Estate of James Tutt, Jr., Plaintiff Karen Tutt is entitled to damages recoverable for the shooting and death of Jim Tutt, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his

injury until his death, for which Jim Tutt would have been entitled to receive compensation from River City had he survived.

123. As a direct and proximate result of River City's negligence, Josh Barrick was injured and died on April 10, 2023. Plaintiff James M. Gilly, Jr., as Executor of the Estate of Joshua Barrick, deceased, brings this action pursuant to Ky. Rev. Stat. Ann. § 413.180. As Executor of the Estate of Joshua Barrick, Plaintiff James M. Gilly, Jr. is entitled to damages recoverable for the shooting and death of Josh Barrick, including the physical pain, mental suffering, loss of enjoyment of life, anxiety, and severe emotional distress experienced from the time of his injury until his death, for which Josh Barrick would have been entitled to receive compensation from River City had he survived.

124. As a direct and proximate result of River City's negligence, Plaintiffs Dana Mitchell, Julie Andersen, James "Jimmy" Evans, and Stephanie "Dallas" Schwartz have sustained and will sustain physical pain, mental suffering, loss of enjoyment of life, anxiety, severe emotional distress, and economic damages, including past and future healthcare expenses.

125. Accordingly, Plaintiffs are entitled to recovery against River City in an amount to be determined at trial.

### **COUNT III – WRONGFUL DEATH**

***(By Plaintiffs Karen Tutt and James Gilly Against Defendant River City Firearms, Inc.)***

126. Plaintiffs Karen Tutt and James Gilly incorporate and re-allege the above paragraphs as if fully set forth herein.

127. As a direct and proximate result of the previously alleged conduct, River City caused the deaths of Jim Tutt and Josh Barrick by its wrongful conduct.

128. At the time of his death, Jim Tutt was survived by his wife, Karen Tutt, and adult children, Aaron Tutt, Karissa Dear Pitcock, Andrew Tutt, and Kariana Mansfield. The aforementioned heirs/next-of-kin suffered injuries including grief, sorrow, and mental anguish. As a direct and proximate result of the premature death of Jim Tutt, his estate also suffered the destruction of his power to labor and earn money. Plaintiff Karen Tutt, individually and as Administrator of the Estate of James Tutt, Jr., brings an additional action pursuant to Ky. Rev. Stat. Ann. § 411.130 for the wrongful death of Jim Tutt and is entitled to recover damages including, but not limited to, pecuniary injuries, including lost future income, lost earning capacity, and the reasonable value of services.

129. As a direct and proximate result of the premature death of Josh Barrick, his estate also suffered the destruction of his power to labor and earn money. Plaintiff James M. Gilly, Jr., as Executor of the Estate of Joshua Barrick, brings an additional action pursuant to Ky. Rev. Stat. Ann. § 411.130 for the wrongful death of Josh Barrick and is entitled to recover damages including, but not limited to, pecuniary injuries, including lost future income, lost earning capacity, funeral expenses, and the reasonable value of services.

#### **COUNT IV – LOSS OF SPOUSAL CONSORTIUM**

***(By Plaintiffs Karen Tutt and Jessica Barrick Against Defendant River City Firearms, Inc.)***

130. Plaintiffs Karen Tutt and Jessica Barrick incorporate and re-allege the above paragraphs as if fully set forth herein.

131. As a result of the negligence, gross negligence, and reckless conduct of the Defendant River City, Karen Tutt suffered a loss of love and affection of her husband, Jim Tutt.

132. Plaintiff Karen Tutt has suffered and will continue to suffer emotional devastation from the loss of her husband, Jim, including loss of services, assistance, society, companionship,



conjugal relationship, and general consortium and therefore also alleges an additional claim for loss of spousal consortium.

133. As a result of the negligence, gross negligence, and reckless conduct of the Defendant River City, Jessica Barrick suffered a loss of love and affection of her husband, Josh Barrick.

134. Plaintiff Jessica Barrick has suffered and will continue to suffer emotional devastation from the loss of her husband, Josh, including loss of services, assistance, society, companionship, conjugal relationship, and general consortium and therefore also alleges an additional claim for loss of spousal consortium.

#### **COUNT V – LOSS OF PARENTAL CONSORTIUM**

*(By Plaintiff Jessica Barrick Against Defendant River City Firearms, Inc.)*

135. Plaintiff Jessica Barrick as Parent, Next Friend, and Natural Guardian of minor children C.G.B. and J.P.B. incorporates and re-alleges the above paragraphs as if fully set forth herein.

136. As a result of the negligence, gross negligence, and reckless conduct of the Defendant River City, minor children C.G.B. and J.P.B. suffered a loss of love and affection of their father, Josh Barrick.

137. At the time of his death, Josh Barrick was survived by his minor children, C.G.B. and J.P.B. Plaintiff Jessica Barrick also brings a claim for the wrongful death of Josh Barrick on behalf of his minor children who have suffered the loss of parental consortium, care, companionship, training, and guidance.

#### **PUNITIVE DAMAGES**

138. Plaintiffs incorporate and re-allege the above paragraphs as if fully set forth herein.

139. The aforementioned conduct, actions, and inactions of River City constituted gross negligence, gross carelessness, or was so grossly reckless or wanton as to warrant an award of punitive damages.

**WHEREFORE**, Plaintiffs, DANA MITCHELL; JULIE ANDERSEN; JAMES “JIMMY” EVANS; STEPHANIE “DALLAS” SCHWARTZ; KAREN TUTT, individually and as Administrator for the Estate of JAMES TUTT, JR., deceased; JESSICA BARRICK, individually and as Parent, Next Friend, and Natural Guardian of minor children C.G.B. and J.P.B.; and JAMES M. GILLY, JR., as Executor for the Estate of JOSHUA BARRICK, deceased, demand a trial by jury and pray for judgment against Defendant RIVER CITY FIREARMS, INC. as follows:

1. Compensatory damages in an amount that is fair and reasonable as established by the evidence;
2. Punitive damages;
3. Prejudgment interest;
4. Postjudgment interest;
5. Costs expended herein, including reasonable attorney’s fees; and
6. Any and all other relief to which Plaintiffs may be entitled.

DATE: January 22, 2024

Respectfully submitted,

/s/ Tad Thomas  
 Tad Thomas (KY 88577)  
 Kevin Weis (KY 87977)  
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Presiding Judge: HON. MELISSA LOGAN BELLOWS (630454)  
EOM : 000036 of 000037

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*\*Pro hac vice forthcoming*

Filed

23-P-002293 05/09/2023

David L. Nicholson, Jefferson Circuit Clerk

AOC-805 Rev. 1-22 Page 4 of 4	Doc. Code: OPP; OWF; or OFID		Case No. <u>23 P</u>
Commonwealth of Kentucky Court of Justice <a href="http://www.kycourts.gov">www.kycourts.gov</a> KRS 394.145; 395.015; 395.016			<b>PETITION FOR PROBATE OF WILL;          AND/OR APPOINTMENT OF          EXECUTOR/ADMINISTRATOR; AND ORDER</b>
			Division <u>Probate</u>

IN RE: Estate of James Albert Tutt, Jr.

ORDER

Petition filed this 9 day of May, 2023.

Will tendered this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

Upon hearing, the Will offered was proven by NIA and **ORDERED**  
**PROBATED** as the Last Will and Testament of Decedent this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

The Court appoints: Karen Dawn Tutt as  Executor/Executrix OR  
 Administrator/Administratrix of said estate and fixes bond in the sum of \$500,000  with surety  
 OR  without surety.

(Check if Executor/Executrix or Administrator/Administratrix is a nonresident)

The Court designates \_\_\_\_\_, whose address is \_\_\_\_\_  
 \_\_\_\_\_, as agent for the service of process in any action filed against  
 the above-appointed Executor/Executrix or Administrator/Administratrix as personal representative or personally if the  
 action accrued in the administration of the estate.

June 29, 2023  
 Date

Katie King  
 Judge's Signature

ENTERED IN COURT  
 DAVID L. NICHOLSON, CLERK  
 JUN 29 2023  
 BY dl  
 DEPUTY CLERK

Distribution: Case File  
 Revenue Cabinet (Petition and Order)

22F5350F-DCEC-4735-BC68-22E2FC520F73 : 000084 of 000093  
 Presiding Judge: HON. KATIE KING (730052)  
 PWF : 000004 of 000005  
 EXH : 000001 of 000001

COMMONWEALTH OF KENTUCKY  
JEFFERSON CIRCUIT COURT  
DIVISION SEVEN (7)  
CIVIL ACTION NO. 24-CI-000518

*ELECTRONICALLY FILED*

DANA MITCHELL, et al.

PLATINTIFFS

v.

RIVER CITY FIREARMS, INC.

DEFENDANT

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**AFFIDAVIT OF JESSICA BARRICK  
PURSUANT TO KRS 387.300 AND CR 17.03(1)**

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Comes now the Affiant, Jessica Barrick, and after having been first duty sworn, and pursuant to KRS 387.300 and CR 17.03(1) avers and states as follows:

1. I am over eighteen (18) years of age and otherwise legally competent to give this Affidavit.
2. I am currently a resident of Louisville, Kentucky.
3. I am free of any physical and/or mental disability.
4. I am the biological mother, custodial parent, and will be acting as next friend of C.G.B. and J.P.B. who are unmarried minors.
5. No person, agency, corporation, guardian, or committee has been previously appointed by any court to represent the minors' interests.
6. I attest that in accordance with KRS 387.300, that I have the right to pursue the above referenced legal action as next friend of C.G.B. and J.P.B., minor children, and I agree to be liable for the costs which accrue during the conduct of the action, if any.
7. In the event any monetary compensation is obtained on behalf of C.G.B. and J.P.B., minor children, such as monies will be used exclusively for the support, maintenance, and education of C.G.B. and J.P.B., minor children.

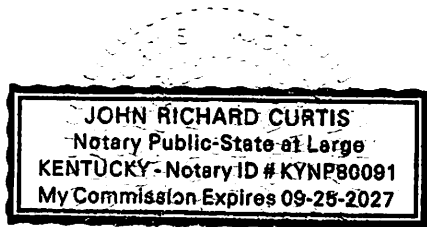
FURTHER AFFIANT SAYETH NAUGHT

FURTHER AFFIANT SAYETH NAUGHT

Jessica Barrick  
Jessica Barrick, Affiant

SUBSCRIBED AND SWORN before me by, Jessica Barrick, on this 21st day of February 2024.

John Curtis  
NOTARY PUBLIC, State at Large Dom Certy  
My Commission Expires 9/25/27



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EXH : 000002 of 000003




22F5350F-DCEC-4735-BC68-22E2FC520F73 : 000087 of 000093

EXH : 000003 of 000003

Filed

23-P-002168 05/01/2023

David L. Nicholson, Jefferson Circuit Clerk

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Commonwealth of Kentucky Court of Justice <a href="http://www.kycourts.gov">www.kycourts.gov</a> KRS 394.145; 395.015; 395.016			Court _____
			County <u>Jefferson</u>
			Division <u>Probate</u>

IN RE: Estate of Joshua M. Barrick

ORDER

Petition filed this 1 day of MAY, 2023  
 Will tendered this 8 day of MAY, 2023

*copy - consent by heirs at law*

Upon hearing, the Will offered was proven by self under KRS 394.225 and ORDERED  
 PROBATED as the Last Will and Testament of Decedent this \_\_\_\_\_ day of JUN 19 2023, 2\_\_\_\_\_.

The Court appoints: James M. Gilly, Jr. as  Executor/Executrix OR  
 Administrator/Administratrix of said estate and fixes bond in the sum of \$ 65,000  with surety  
 OR  without surety.

(Check if Executor/Executrix or Administrator/Administratrix is a nonresident)

The Court designates Richard M. Wehrle, whose address is 400 W Market St Ste 1800  
 Louisville, KY 40202, as agent for the service of process in any action filed against  
 the above-appointed Executor/Executrix or Administrator/Administratrix as personal representative or personally if the  
 action accrued in the administration of the estate.

Date June 19 2023

Katie King  
 Judge's Signature

ENTERED IN COURT  
 DAVID L. NICHOLSON, CLERK  
 JUN 19 2023  
 BY SL  
 DEPUTY CLERK

Distribution: Case File  
 Revenue Cabinet (Petition and Order)

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Presiding Judge: HON. KATIE KING (730052)

PWF : 000004 of 000004  
EXH : 000001 of 000001





### CIVIL SUMMONS

*Plaintiff, MITCHELL, DANA ET AL VS. RIVER CITY FIREARMS, INC., Defendant*

**TO: TAULBEE, MATTHEW ADAM  
REMINGER CO., LPA  
250 GRANDVIEW DRIVE, SUITE 550  
FORT MITCHELL, KY 410170000**

Telephone # : 8594263667

Email: MTAULBEE@REMINGER.COM

The Commonwealth of Kentucky to Defendant:

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Jefferson Circuit Clerk

Date: **4/8/2024**

### Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title





### CIVIL SUMMONS

*Plaintiff, MITCHELL, DANA ET AL VS. RIVER CITY FIREARMS, INC., Defendant*

**TO: INCORPORATING SERVICES, LTD.  
828 LANE ALLEN ROAD  
LEXINGTON, KY 40504**

Memo: Related party is RSR GROUP, INC.

The Commonwealth of Kentucky to Defendant:  
**RSR GROUP, INC.**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Jefferson Circuit Clerk  
Date: **4/8/2024**

### Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title





### CIVIL SUMMONS

*Plaintiff, MITCHELL, DANA ET AL VS. RIVER CITY FIREARMS, INC., Defendant*

**TO: VCORP SERVICES, LLC  
306 W MAIN STREET, SUITE 512  
FRANKFORT, KY 40601**

Memo: Related party is MAGPUL INDUSTRIES CORPORATION

The Commonwealth of Kentucky to Defendant:  
**MAGPUL INDUSTRIES CORPORATION**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Jefferson Circuit Clerk

Date: **4/8/2024**

### Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title





### CIVIL SUMMONS

*Plaintiff, MITCHELL, DANA ET AL VS. RIVER CITY FIREARMS, INC., Defendant*

**TO: DERRICK MEYERS  
2915 PRESTON HIGHWAY  
LOUISVILLE, KY 40217**

Memo: Related party is RIVER CITY FIREARMS, INC.

The Commonwealth of Kentucky to Defendant:  
**RIVER CITY FIREARMS, INC.**

You are hereby notified that a **legal action has been filed against you** in this Court demanding relief as shown on the document delivered to you with this Summons. **Unless a written defense is made by you or by an attorney on your behalf within twenty (20) days** following the day this paper is delivered to you, judgment by default may be taken against you for the relief demanded in the attached complaint.

The name(s) and address(es) of the party or parties demanding relief against you or his/her (their) attorney(s) are shown on the document delivered to you with this Summons.

Jefferson Circuit Clerk

Date: **4/8/2024**

### Proof of Service

This Summons was:

Served by delivering a true copy and the Complaint (or other initiating document)

To: \_\_\_\_\_

Not Served because: \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Served By

\_\_\_\_\_  
Title





**Commonwealth of Kentucky**  
**David L. Nicholson, Jefferson Circuit Clerk**

**Case #:** 24-CI-000518

**Envelope #:** 7689035

**Received From:** WEIS, KEVIN P.

**Account Of:** WEIS, KEVIN P.

**Case Title:** MITCHELL, DANA ET AL VS. RIVER CITY

**Confirmation Number:** 179438592

**FIREARMS, INC.**  
 Filed On 4/8/2024 12:21:47PM

<b>#</b>	<b><u>Item Description</u></b>	<b><u>Amount</u></b>
1	Money Collected For Others(Postage)	\$100.60
2	Charges For Services(Copy - Photocopy)	\$36.00
3	Charges For Services(Jury Demand / 12)	\$70.00
<b>TOTAL:</b>		<u>\$206.60</u>

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