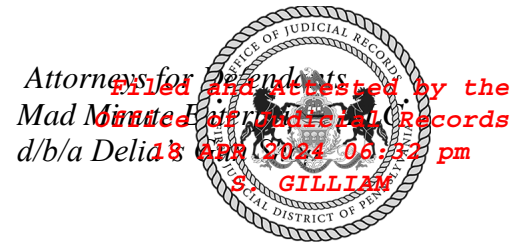


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IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY, PENNSYLVANIA

City of Philadelphia : CASE NO.: 230702394
: :
Plaintiff : CIVIL DIVISION
: :
v. : :
: :
Tanner Operations, LLC, *et. al.* : :
: :
Defendants : :

DEFENDANTS’ ANSWER WITH NEW MATTER TO PLAINTIFF’S AMENDED COMPLAINT

Defendant, Mad Minute Enterprises, LLC d/b/a Delia’s Gun Shop¹ (hereinafter “Delia’s” or “Defendant”) by and through its undersigned counsel Goldstein Law Partners, LLC, files its Answer with New Matter to Plaintiff’s Amended Complaint and aver as follows:

SUMMARY OF ACTION

1. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

¹ See Deft.’s Answer 14 below.

3. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

4. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied. By way of further denial, Plaintiff references writings which speak for themselves, and therefore, Plaintiff's characterizations made regarding those writings are specifically denied.

5. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same. By way of further denial, this paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

6. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

7. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied, and Defendant demands strict proof thereof at trial.

8. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

9. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

10. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

PARTIES

11. Admitted upon information and belief.

12. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

14. Admitted in part and denied in part. It is admitted that Mad Minute Enterprises, LLC is a domestic limited liability company located at 6104 Torresdale Avenue, possesses a Type 1 federal firearms license and operates under the fictitious name Delia's Gun Shop. Upon information and belief, Delia's Gun Shop, Inc., was the former owner of the retail store located at the aforementioned address and is no longer an operating entity. Delia's Gun Shop, Inc., is separate, distinct and wholly unrelated entity to Mad Minute Enterprises, LLC.

JURISDICTION AND VENUE

15. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial.

16. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial.

17. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial.

FACTS

18. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

19. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

20. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

22. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

23. This paragraph consists of Plaintiff's characterization of various legal provisions, to which no response is required.

24. This paragraph consists of Plaintiff's characterization of various legal provisions, to which no response is required.

25. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

26. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same. By way of further denial, this paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required.

27. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same. By way of further denial, this paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required.

28. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same. By way of further denial, this paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required.

29. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same. By way of further denial, this paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required.

30. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

31. This paragraph consists of Plaintiffs' characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

32. Plaintiff references writings which speak for themselves, and therefore, Plaintiff's characterizations made regarding those writings are specifically denied. Defendant respectfully refers the Court to the cited statutory and regulatory provisions for full and fair statements of their terms, and otherwise denies the allegations of this paragraph.

33. Plaintiff references writings which speak for themselves, and therefore, Plaintiff's characterizations made regarding those writings are specifically denied. Defendant respectfully refers the Court to the cited statutory and regulatory provisions for full and fair statements of their terms, and otherwise denies the allegations of this paragraph.

34. Plaintiff references writings which speak for themselves, and therefore, Plaintiff's characterizations made regarding those writings are specifically denied. Defendant respectfully refers the Court to the cited statutory and regulatory provisions for full and fair statements of their terms, and otherwise denies the allegations of this paragraph.

35. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

36. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

37. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

38. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

39. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

40. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

41. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

42. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

43. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

44. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

45. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

46. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial.

47. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial.

48. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied.

49.-80. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

81. This paragraph consists of a hypothetical factual conclusion, or a legal conclusion, to which no response is required. To the extent that a response is deemed required, the paragraph is denied. By way of further denial, Defendant conducted the subject firearm sales in conformity and compliance with all state and federal laws and regulations.

82. Admitted in part and denied in part. It is admitted only that Defendant sold Anthony Cipriano the firearms averred. Defendant conducted the subject firearm sales in conformity and compliance with all state and federal laws and regulations and Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to

Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

83. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial. By way of further denial, Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

84. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial. By way of further denial, Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

85. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

86. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

87. Admitted in part and denied in part. It is admitted only that Defendant sold Charles Thompson the firearms averred. Defendant conducted the subject firearm sales in conformity and compliance with all state and federal laws and regulations and Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to

Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

88. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

89. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

90. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied and Defendant demands strict proof thereof at trial. By way of further denial, Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

91. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

92. Admitted in part and denied in part. It is admitted only that Defendant sold Emmitt M. Smith the firearms averred. Defendant conducted the subject firearm sales in conformity and compliance with all state and federal laws and regulations and Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

93. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

94. Admitted in part and denied in part. It is admitted only that Defendant sold Tyrone Gresham the firearms averred. Defendant conducted the subject firearm sales in conformity and compliance with all state and federal laws and regulations and Plaintiff's characterization of the transactions as illegal or otherwise improper or any hypothetical factual conclusion as to Defendant's knowledge of the purchaser's motives or intent is denied and Defendant demands strict proof thereof at trial.

95. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

CAUSES OF ACTION

COUNT I – PUBLIC NUISANCE

96. This is an incorporation paragraph to which no response is required.

97. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

98. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

99. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

100. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

101. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

102. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

103. Admitted only that Defendant is not licensed to manufacture firearms. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations asserted in this paragraph and therefore denies the same.

104. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

105. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

106. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

107. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

108. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations asserted in this paragraph and therefore denies the same.

109. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

110. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

111. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

112. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

COUNT 2 - NEGLIGENCE

113. This is an incorporation paragraph to which no response is required.

114. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

115. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

116. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

117. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

118. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

119. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

COUNT 3 – NEGLIGENCE PER SE

120. This is an incorporation paragraph to which no response is required.

121. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

122. This paragraph consists of Plaintiff's characterization of the effect of various legal provisions, to which no response is required. To the extent that a response is deemed required, the Court is respectfully referred to the cited legal provisions for a full and fair statement of their terms.

123. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

124. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

125. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

126. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

COUNT 4 - NEGLIGENT ENTRUSTMENT

127. This is an incorporation paragraph to which no response is required.

128. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

129. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

130. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

131. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

132. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

133. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

134. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

135. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

136. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

COUNT 5 – VIOLATION OF 18 PA.C.S. § 6111(G)(6)

137. This is an incorporation paragraph to which no response is required.

138. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

139. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

140. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

141. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

142. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

143. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

144. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

145. Denied. The averments of this paragraph contain conclusions of law to which no responsive pleading is required. To the extent a response is required, the averments are specifically denied.

NEW MATTER

146. Defendant hereby incorporate by reference Paragraphs 1 through 145 of this Answer with New Matter as if fully set forth herein.

147. Plaintiff's Complaint fails to state a claim for Public Nuisance.

148. Plaintiff's Complaint fails to state a claim for Negligence.

149. Plaintiff's Complaint fails to state a claim for Negligence Per Se.

150. Plaintiff's Complaint fails to state a claim for Negligent Entrustment.

151. Plaintiff's Complaint fails to state a claim for Violation of 18 PA.C.S. § 6111(G)(6).

152. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

153. Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

154. Plaintiff's claims are barred, in whole or in part, by the doctrine of waiver.

155. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

156. Plaintiff's claims are preempted or barred, in whole or in part, by federal or state law, namely section 6120(a) of Pennsylvania Uniform Firearms Act, 18 Pa.C.S. § 6101, et. seq. ("UFA").

157. Plaintiff's claims are barred, in whole or in part, by the Municipal Costs Recovery Rule.

158. Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel and the doctrine of non-mutual collateral estoppel.

159. Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to perform.

160. Plaintiff's Complaint fails to state a claim upon which damages may be granted.

161. Plaintiff's claims are barred, in whole or in part, because the Plaintiff suffered no actual damages as a result of Defendant's conduct.

162. Plaintiff's claims are barred, in whole or in part, by Plaintiff's own contributory or comparative negligence.

163. Plaintiff's claims are barred, in whole or in part, by the doctrine of superseding and/or intervening cause.

164. Plaintiff failed to mitigate damages.

165. Defendant believes and therefore avers that the injuries and damages, if any, which the Plaintiff sustained as alleged in the Complaint were not the result of any act or failure to act on

the part of Defendant, all such allegations being expressly denied by Defendant, and Plaintiff's action is therefore barred.

166. Plaintiff's claims are barred since Plaintiff cannot prove a breach of duty.

167. Defendant's conduct was reasonable at all times.

168. Defendant's fulfilled any alleged duty or obligations toward Plaintiff.

169. Defendant was not negligent.

170. Plaintiff's injuries, if any, were caused by the acts or omissions of third parties, over which Defendant had no control, and/or no obligation to control.

171. Plaintiff's claims are barred, in whole or in part, as Plaintiff's lack standing to pursue the claims.

172. Plaintiff's alleged damages were caused in their entirety by Plaintiff's own negligence and/or actions.

173. Defendant's conduct was in conformity and compliance with all state and federal laws and regulations.

174. Defendant did not willfully or intentionally commit any wrongful acts causing injury or damage to the Plaintiff, and, in the absence of such willful misconduct, there can be no liability on the part of Defendant to the Plaintiff in this case.

175. Plaintiff's Complaint violates Defendant's rights to procedural and substantive due process under the Fifth and Fourteenth Amendments of the United States Constitution and the Constitution of the Commonwealth of Pennsylvania and the Defendant's rights to protection from excessive fines as provided for in the Eighth Amendment of the United States Constitution and Article 1 Section 8 of the Constitution of the Commonwealth of Pennsylvania.

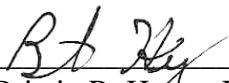
176. Defendant further specifically pleads the affirmative defenses of assumption of the risk, res judicata, immunity from suit, consent, impossibility of performance, and justification.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter judgment in its favor and any such other relief as this Honorable Court deems just and proper.

Respectfully submitted,

GOLDSTEIN LAW PARTNERS, LLC

Dated: 04/18/2024



Britain R. Henry, Esq.
Jonathan S. Goldstein, Esq.
*Attorneys for Defendants Mad Minute
Enterprises, LLC d/b/a Delia's Gun Shop*