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SUPERIOR COURT

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA

13 COUNTY OF LOS ANGELES

14 BC214794

15 PEOPLE OF THE STATE OF CALIFORNIA, *ex*
rel. the County of Los Angeles, COUNTY OF LOS
16 ANGELES, on behalf of itself and the general
public, and GLORIA MOLINA, ZEV
17 YAROSLAVSKY and YVONNE BRATHWAITE
BURKE, SUPERVISORS OF LOS ANGELES
18 COUNTY, on behalf of the general public,

19 Plaintiffs,

20 v.

21 ARCADIA MACHINE & TOOL, BRYCO ARMS,
INC., DAVIS INDUSTRIES, INC., LORCIN
22 ENGINEERING CO., INC., PHOENIX ARMS,
SUNDANCE INDUSTRIES, INC., EXCEL
23 INDUSTRIES, INC., ACCU-TEK FIREARMS,
BERETTA U.S.A., CORP., PIETRO BERETTA
Sp.A., BROWNING ARMS CO., CARL
24 WALTHER GmbH, CHARTER ARMS, INC.,
COLT'S MANUFACTURING CO., INC., FORJAS
25 TAURUS, S.A., GLOCK, INC., GLOCK GmbH,
H&R 1871, INC., HECKLER & KOCH, INC., MKS
26 SUPPLY, INC., HI-POINT FIREARMS, KEL-TEC
27 CNC INDUSTRIES, INC., CHINA NORTH
INDUSTRIES A/K/A NORINCO, NAVEGAR,
28 INC. D/B/A INTRATEC U.S.A., INC., NORTH
AMERICAN ARMS, INC., SIGARMS, INC.,

Case No.

COMPLAINT FOR:

1. PUBLIC NUISANCE
2. VIOLATIONS OF BUSINESS AND
PROFESSIONS CODE § 17200
3. VIOLATIONS OF BUSINESS AND
PROFESSIONS CODE § 17500

[caption continued]

8-6-99

1 SMITH & WESSON CORP., STURM, RUGER &
2 COMPANY, INC., S.W. DANIEL, INC., A/K/A
3 COBRAY FIREARMS, INC., TAURUS
4 INTERNATIONAL MANUFACTURING, INC.,
5 AMERICAN SHOOTING SPORTS COUNCIL,
6 INC., NATIONAL SHOOTING SPORTS
7 FOUNDATION, INC., SPORTING ARMS AND
8 AMMUNITION MANUFACTURERS'
9 INSTITUTE, INC., B.L. JENNINGS, ELLETT
10 BROTHERS, INTERNATIONAL ARMAMENT
11 CORP, D/B/A INTERARMS INDUSTRIES, INC.,
12 RSR WHOLESALE GUNS, INC., SOUTHERN
13 OHIO GUN DISTRIBUTORS, B&B GROUP, INC.,
14 B&E GUNS, ANDREWS SPORTING GOODS,
15 INC., NATIONAL GUNS SALES, INC., S.G.
16 DISTRIBUTING, INC., HAWTHORNE
17 DISTRIBUTORS, INC., and DOES 1-300,

18 Defendants.

19 The People of the State of California, *ex rel.* the County of Los Angeles, The County
20 of Los Angeles, on behalf of itself and the general public, and Gloria Molina, Zev Yaroslavsky and
21 Yvonne Brathwaite Burke, Supervisors of Los Angeles County, on behalf of the general public,
22 allege as follows, upon information and belief:

23 INTRODUCTION

24 1. This action is brought against handgun manufacturers, distributors, retailers
25 and trade associations that adversely impact California. These Defendants design, manufacture,
26 market, distribute, advertise, promote, supply and sell handguns in a manner that facilitates both the
27 easy availability of handguns to juveniles and criminals for their use in crime and the operation of
28 handguns by children, with the resulting yearly toll of injury and loss of life in of Los Angeles
County, and throughout the State of California.

2. Defendants' pattern of unfair, unlawful and fraudulent business acts and
practices and unfair, deceptive, untrue or misleading statements and advertisements have resulted in
Defendants being unjustly enriched.

3. Defendants, and each of them, have engaged in conduct that is injurious to
health and has resulted in the creation and maintenance of a public nuisance in Los Angeles County.

1 4. Defendants, and each of them, design, market, distribute, advertise, promote,
2 supply and sell handguns — a dangerous instrument that is the primary tool for violent crime — in a
3 manner that facilitates the easy availability and misuse by felons, minors under the age of 21, and
4 other prohibited or unauthorized purchasers and users. Further, Defendants, and each of them,
5 design, market, distribute, advertise, promote, supply and sell handguns that fail to incorporate
6 reasonable safety features, and over-promote the purported self-defense and home protection benefits
7 of handguns, in a manner that undermines the minimal warnings or instructions provided by
8 Defendants regarding safe storage, possession and use of handguns, thereby resulting in the unsafe
9 storage, possession and use of handguns.

10 5. Defendants' pattern of unfair, unlawful and fraudulent business acts and
11 practices and unfair, deceptive, untrue or misleading statements and advertisements have
12 undermined federal, state and local gun laws and the public policies embodied in those laws.
13 Defendants have unjustly enriched themselves and have shifted the burden and responsibility of the
14 foreseeable costs of Defendants' products to the victims of gun violence and to the taxpayers. The
15 resulting levels of shooting deaths and injuries in California and the entire nation exceed those in
16 almost every other area of the world, impose enormous economic costs, and unreasonably interfere
17 with the safety, health, well-being and quality of life of the People of the State of California.

18 6. As a result of Defendants' unfair, unlawful and fraudulent business acts and
19 practices and unfair, deceptive, untrue or misleading statements and advertisements, thousands of
20 California residents have died, suffered serious bodily injury, and been exposed to criminal activity
21 involving handguns.

22 7. In Los Angeles County, in 1997 there were 1,385 firearms deaths caused by
23 firearms. Additionally, in 1997 there were 2,336 hospitalizations for non-fatal injuries. Of these,
24 2,269 were assault/homicides; 64 were self-inflicted wounds/suicides, and 198 resulted from
25 unintentional shootings.

26 8. In Los Angeles County, 271 young people aged 19 or younger were killed
27 with firearms in 1997 and an additional 839 were hospitalized for firearms-related injuries.
28

1 9. Homicides committed with handguns are the leading cause of firearms related
2 injuries and death in California. In 1997 alone, there were 1,835 homicides committed with a
3 firearm in California and over 25,000 firearms-related injuries. The vast majority of these deaths and
4 injuries are attributable to handguns.

5 10. Theses statistics demonstrate the magnitude of the problem caused by
6 Defendants' unfair, unlawful and fraudulent business acts and practices.

7 11. In order to reduce the number of handgun-related tragedies, Plaintiffs bring
8 this action to enjoin the unfair, unlawful and fraudulent business acts and practices of Defendants, to
9 obtain disgorgement of Defendants' wrongfully-obtained profits, to collect civil penalties, and abate
10 the nuisance caused by Defendants' conduct alleged herein.

11 THE PARTIES

12 PLAINTIFFS

13 12. People of The State of California, *ex rel.* the County of Los Angeles, County
14 of Los Angeles, on behalf of itself and the general public, and Gloria Molina, Zev Yaroslavsky, and
15 Yvonne Brathwaite Burke, Supervisors of Los Angeles County, on behalf of the general public,
16 bring this action pursuant to Business and Professions Code §§ 17204 and 17535 and Code of Civil
17 Procedure § 731.

18 DEFENDANTS

19 13. Defendants, and each of them, design, manufacture, market, distribute,
20 advertise, promote, supply and sell handguns.

21 14. Defendants, and each of them, are sued individually as a primary violator and
22 as an aider and abettor. In acting to aid and abet the commission of the unfair, unlawful and
23 fraudulent business acts and practices complained of herein, each Defendant acted with the actual or
24 constructive awareness of the wrongfulness of such acts and practices and nonetheless rendered
25 substantial assistance or encouragement to accomplish the wrongful acts and practices and was
26 aware of the overall contribution to the common course of wrongful acts and practices alleged
27 herein.
28

1 15. Whenever in this Complaint reference is made to any act or omission of a
2 corporate Defendant, such allegation refers to the officers, directors, employees and agents of the
3 corporate Defendant who did or do authorize such act(s) or omission(s) while actively engaged in the
4 management, direction, operation or control of the affairs of the corporate Defendant, and while
5 acting in the course and scope of their agency and employment.

6 16. The following Defendants, and each of them, design and manufacture
7 handguns that are or were designed, manufactured, marketed, distributed, advertised, promoted,
8 supplied and sold in California (hereinafter referred to as the "Defendant Manufacturers"):

9 17. Defendant Arcadia Machine & Tool ("AMT") is a corporation organized and
10 existing under the laws of the State of California with its principal place of business in California.

11 18. Defendant Bryco Arms, Inc, ("Bryco") is a corporation organized and existing
12 under the laws of the State of Nevada with its principal place of business in California.

13 19. Defendant Davis Industries, Inc, ("Davis") is a corporation organized and
14 existing under the laws of the State of California with its principal place of business in California.

15 20. Defendant Lorcin Engineering Co., Inc, ("Lorcin") is a corporation organized
16 and existing under the laws of the State of California with its principal place of business in
17 California.

18 21. Defendant Phoenix Arms ("Phoenix") is a corporation organized and existing
19 under the laws of the State of California with its principal place of business in California.

20 22. Defendant Sundance Industries, Inc, ("Sundance") is a corporation organized
21 and existing under the laws of the State of California with its principal place of business in
22 California.

23 23. Defendant Excel Industries, Inc. is a corporation organized and existing under
24 the laws of the State of California with its principal place of business in California.

25 24. Defendant Accu-Tek Firearms is a corporation organized and existing under
26 the laws of the State of California with its principal place of business in California.

27 25. Defendant Beretta U.S.A. Corp. ("Beretta U.S.A.") is a corporation organized
28 and existing under the laws of the State of Maryland with its principal place of business in Maryland,

1 and imports handguns manufactured by defendant Pietro Beretta Sp. A., a corporation organized and
2 existing under the laws of Italy with its principal place of business in Italy.

3 26. Defendant Pietro Beretta Sp. A. ("Pietro Beretta") is a corporation organized
4 and existing under the laws of Italy with its principal place of business in Italy.

5 27. Defendant Browning Arms Co. ("Browning") is a corporation organized and
6 existing under the laws of the State of Utah with its principal place of business in Utah.

7 28. Defendant Carl Walther GmbH ("Carl Walther") is a corporation organized
8 and existing under the laws of the Federal Republic of Germany with its principal place of business
9 in the Federal Republic of Germany.

10 29. Defendant Charter Arms, Inc. ("Charter Arms") is a corporation organized and
11 existing under the laws of the State of Connecticut, with its principal place of business in New
12 Jersey.

13 30. Defendant Colt's Manufacturing Company, Inc. ("Colt") is a corporation
14 organized and existing under the laws of the State of Delaware with its principal place of business in
15 Connecticut.

16 31. Defendant Forjas Taurus, S.A. ("Forjas Taurus") is a corporation organized
17 and existing under the laws of Brazil with its principal place of business in Brazil.

18 32. Defendant Glock, Inc. is a corporation organized and existing under the laws
19 of the State of Georgia with its principal place of business in Georgia, and imports handguns
20 manufactured by defendant Glock GmbH, an Austrian corporation with its principal place of
21 business in Austria.

22 33. Defendant Glock GmbH is a corporation organized and existing under the
23 laws of Austria with its principal place of business in Austria.

24 34. Defendant H&R 1871, Inc. ("H&R") is a corporation organized and existing
25 under the laws of the State of Massachusetts with its principal place of business in Massachusetts.

26 35. Defendant Heckler & Koch, Inc. ("Heckler & Koch") is the United States
27 subsidiary of Heckler & Koch, GmbH, organized in the Federal Republic of Germany, with its
28 principal place of business in Virginia.

1 36. Defendant Kel-Tec CNC Industries, Inc. ("Kel-Tec") is a corporation
2 organized and existing under the laws of the State of Florida, with its principal place of business in
3 Florida.

4 37. Defendant China North Industries a/k/a Norinco ("Norinco") is a corporation
5 organized and existing under the laws of the State of California with its principal place of business in
6 California.

7 38. Defendant Navegar, Inc. d/b/a Intratec U.S.A., Inc. ("Navegar") is a
8 corporation organized and existing under the laws of the State of Florida with its principal place of
9 business in Florida.

10 39. Defendant North American Arms, Inc. is a corporation organized and existing
11 under the laws of the State of Utah with its principal place of business in Utah.

12 40. Defendant Sigarms, Inc. ("Sigarms") is a corporation organized in the State of
13 New Hampshire, with its principal place of business in New Hampshire.

14 41. Defendant Smith & Wesson Corp. ("Smith & Wesson") is a corporation
15 organized and existing under the laws of the State of Delaware with its principal place of business in
16 Massachusetts.

17 42. Defendant Sturm, Ruger & Company, Inc. ("Sturm Ruger") is a corporation
18 organized and existing under the laws of the State of Delaware with its principal place of business in
19 Connecticut.

20 43. Defendant S.W. Daniel, Inc. a/k/a Cobray Firearms, Inc., ("Cobray") is a
21 corporation organized and existing under the laws of the State of Georgia, with its principal place of
22 business in Georgia.

23 44. Defendant Taurus International Manufacturing, Inc. ("Taurus") is a
24 corporation organized and existing under the laws of the State of California with its principal place
25 of business in California, and imports handguns manufactured by defendant Forjas Tauras, S.A., a
26 Brazilian corporation with its principal place of business in Brazil.

27 45. At all times relevant herein, DOES 1-100, inclusive, were business entities,
28 the status of which are currently unknown. DOES 1-100 designed and manufactured handguns that

1 are or were marketed, distributed, advertised, promoted, supplied and sold within the jurisdictional
2 limits of California (hereinafter referred to as part of the "Defendant Manufacturers"):

3 46. The following Defendants are industry trade associations (hereinafter referred
4 to as the "Defendant Trade Associations") that are composed of handguns manufacturers,
5 distributors, and sellers, including some or all of the Defendant Manufacturers:

6 47. Defendant American Shooting Sports Council, Inc. (hereinafter referred to as
7 the "ASSC" is a tax exempt business league under § 501(c)(6) of the Internal Revenue Code
8 organized and existing under the laws of the State of Georgia with its principal office in Georgia.
9 ASSC is an industry trade association composed of handgun manufacturers and sellers, including
10 some or all of the Defendant Manufacturers.

11 48. Defendant National Shooting Sports Foundation, Inc. (hereinafter referred to
12 as the "NSSF") is a tax exempt business league under § 501(c)(6) of the Internal Revenue Code
13 organized and existing under the laws of the State of Connecticut with its principal office in
14 Connecticut. NSSF is an industry trade association composed of firearm manufacturers and sellers,
15 including some or all of the Defendant Manufacturers.

16 49. Defendant Sporting Arms and Ammunition Manufacturers' Institute, Inc.
17 (hereinafter referred to as the "SAAMI") is a tax exempt business league under § 501(c)(6) of the
18 Internal Revenue Code organized and existing under the laws of the State of Connecticut with its
19 principal office in Connecticut. SAAMI is an industry trade association composed of handgun
20 manufacturers and sellers, including some or all of the Defendant Manufacturers.

21 50. At all times relevant herein, DOES 101-125, inclusive, were business entities,
22 the status of which are currently unknown. DOES 101-125 are industry trade associations
23 (hereinafter referred to as part of the "Defendant Trade Associations"), which are composed of
24 handgun manufacturers, distributors, and sellers, including some or all of the Defendant
25 Manufacturers.

26 51. The following Defendants, and each of them, marketed, distributed,
27 advertised, promoted, supplied and sold handguns that are or were found within the jurisdictional
28 limits of California (hereinafter referred to as the "Defendant Distributors"):

1 52. Defendant B.L. Jennings is a corporation organized and existing under the
2 laws of the State of Nevada with its principal place of business in Nevada. B.L. Jennings distributes
3 guns made by Defendant Manufacturer Bryco in California.

4 53. Defendant Ellett Brothers is a corporation organized and existing under the
5 laws of the State of South Carolina with its principal place of business in South Carolina. Ellett
6 Brothers telemarkets handguns nationwide, including in California.

7 54. Defendant International Armament Corp. d/b/a Interarms Industries, Inc.
8 ("Interarms") is a corporation organized and existing under the laws of the State of Delaware with its
9 principal place of business in Virginia. Interarms imports and/or distributes handguns made by
10 several different manufacturers, including defendant Carl Walther GmbH. Interarms distributes its
11 products to at least 46 California dealers, which are identified on its Internet site.

12 55. Defendant MKS Supply Inc. is a corporation organized and existing under the
13 laws of the State of Ohio, with its principal place of business in Ohio.

14 56. RSR Wholesale Guns, Inc. is a corporation organized and existing under the
15 laws of the State of New York with its principal place of business in New York. Based on
16 information and belief, RSR Wholesale Guns, Inc., distributes firearms in California, including guns
17 manufactured by defendant Taurus International Manufacturing, Inc.

18 57. Southern Ohio Gun Distributors is a corporation organized and existing under
19 the laws of the State of Ohio with its principal place of business in Ohio. Based on information and
20 belief, Southern Ohio Gun Distributors distributes firearms in California.

21 58. At all times relevant herein, DOES 126-200, inclusive, were business entities,
22 the status of which are currently unknown. DOES 126-200 marketed, distributed, advertised,
23 promoted, supplied and sold handguns that are or were found within California (hereinafter referred
24 to as part of the "Defendant Distributors").

25 59. The following defendants, and each of them, market, distribute, advertise,
26 promote, supply and sell handguns that are or were found within the jurisdictional limits of
27 California (hereinafter referred to as "Defendant Dealers");
28

1 60. Defendant B&B Group, Inc. is a corporation organized and existing under the
2 laws of the State of California with its principal place of business in California.

3 61. Defendant B&E Guns is a corporation organized and existing under the laws
4 of the State of California with its principal place of business in California.

5 62. Defendant Andrews Sporting Goods, Inc., is a corporation organized and
6 existing under the laws of the State of California with its principal place of business in California.

7 63. Defendant National Gun Sales, Inc., is a corporation organized and existing
8 under the laws of the State of Florida with its principal place of business in California.

9 64. Defendant S. G. Distributing, Inc., is a corporation organized and existing
10 under the laws of the State of California with its principal place of business in California.

11 65. Defendant Hawthorne Distributors, Inc., is a corporation organized and
12 existing under the laws of the State of California with its principal place of business in California.

13 66. At all times relevant herein, DOES 201-300, inclusive, were business entities,
14 the status of which are currently unknown. DOES 201-300 market, distribute, advertise, promote,
15 supply and sell handguns that are or were found within California (hereinafter referred to as part of
16 the "Defendant Dealers").

17 67. Plaintiff is ignorant of the true names and capacities of Defendants sued
18 herein as DOES 1-300. Plaintiff alleges that each of the fictitiously named Defendants is responsible
19 in some manner for the violations herein alleged. Plaintiff will seek leave to amend this Complaint
20 to allege such names and capacities when such have been ascertained. All of the above-named
21 Defendants, DOES 1-300, and the agents and employees of those Defendants, were responsible in
22 some manner for the obligations, liabilities and violations herein mentioned, which were legally
23 caused by the aforementioned Defendants and DOES 1-300.

24 **JURISDICTION AND VENUE**

25 68. Defendants, and each of them, are subject to the jurisdiction of the Courts of
26 the State of California by virtue of their business dealings and transactions in California, by causing
27 an injurious effect in California through their acts or omissions, and/or by their violations of
28

California Business and Professions Code §§ 17200 and 17500, and California Civil Code §§ 3479 and 3480.

69. Venue is proper in this court because the violations of law herein alleged and the resulting injuries have been committed within Los Angeles County and elsewhere throughout California. Defendants, and each of them, at all times mentioned in this Complaint have transacted business within Los Angeles County and elsewhere throughout California.

GENERAL ALLEGATIONS

I.

HANDGUN-RELATED CRIME IS A NATIONAL PROBLEM THAT VICTIMIZES THOUSANDS OF CALIFORNIANS

70. The widespread availability and misuse of firearms by minors, convicted criminals, and other unauthorized users is one of the most serious problems facing this nation. In 1996, the most recent year for which final nationwide statistics are available, more than 34,000 people were killed with firearms. Of these, more than 14,300 were homicides and about 18,100 were suicides, with more than 1,100 deaths from accidental shootings.

71. Statewide statistics for California reveal similar patterns of handgun violence. In 1997 alone, there were 1,835 homicides committed with firearms, the majority of which are handguns. In 1997, firearms were the predominant means of committing homicide, constituting 72.3% of total homicides. Handguns alone represented over 6400 of the total homicides and 89% of firearm homicides. During the five-year period 1992 through 1997, handguns were used in over 62% of the total homicides. In addition, in 1997, there were over 25,000 incidents in California in which a victim suffered serious injuries from a firearm.

72. As set forth below, this pattern of handgun violence is repeated in Los Angeles County as well.

73. For each fatal shooting, there are roughly three non-fatal shootings that require emergency room care.

74. These deaths and injuries are devastating for the individuals involved, for their families and communities, and for the State of California. Moreover, the pervasive threat of

handgun violence affects the tenor and quality of everyday life, even for those who are not direct victims.

II.

THE HIGH LEVEL OF FIREARM CRIME IN CALIFORNIA IS FUELED BY THE EASY AVAILABILITY OF HANDGUNS TO ILLEGITIMATE USERS

75. Defendants, and each of them, employ a two-tier distribution system to market handguns to the public. Through a two-tier distribution system, handguns flow from the manufacturer to distributor to dealer to purchaser. This distribution system facilitates, and, in fact, is designed to facilitate, handgun acquisition by persons not authorized or intended to use, sell or possess handguns (through what is hereinafter referred to as the "illegitimate secondary market"), such as criminals and minors. It is inappropriate to market a lethal product such as a handgun in an unsafe and uncontrolled manner as it results in the distribution of handguns to the broadest market possible without employing safeguards against the illegal sale, possession and use of handguns by illegitimate users.

76. A substantial percentage of the handguns used to inflict harm and injury on California residents are obtained through the illegitimate secondary market created and promoted by the unfair, unlawful and fraudulent business acts and practices of Defendants. The fact that the Defendants' acts and omissions have created and promoted the illegitimate secondary market is a matter of common knowledge to Defendants, as is demonstrated by the following sworn statement of Robert Haas, the former Senior Vice-President of Marketing and Sales for defendant Smith & Wesson:

"The company [Smith & Wesson] and the industry as a whole are fully aware of the extent of the criminal misuse of handguns. The company and the industry are also aware that the black market in handguns is not simply the result of stolen guns but is due to the seepage of guns into the illicit market from multiple thousands of unsupervised federal handgun licensees. In spite of their knowledge, however, the industry's position has consistently been to take no independent action to insure responsible distribution practices, to maintain that the present minimal federal regulation of federal handgun licensees is adequate and to call for creator criminal enforcement of those who commit crimes with guns as the solution to the firearm crime problem. . . . I am familiar with the distribution and marketing practices of the [sic] all of the principal U.S. handgun manufacturers and wholesale distributors and none of them, to my knowledge, take additional steps, beyond

determining the possession of a federal handgun license, to investigate, screen or supervise the wholesale distributors and retail outlets that sell their products to insure that their products are distributed responsibly."

77. National surveys demonstrate that handguns are easily available to minors and convicted criminals through the illegitimate secondary market. For example, a recent survey showed that approximately 29% of 10th grade boys and 23% of 7th grade boys have at one time carried a concealed handgun. Another survey showed that 70% of all prisoners felt that they could easily obtain a firearm upon their release. Similarly, a recent study of 27 cities by the federal Bureau of Alcohol, Tobacco and Firearms ("ATF"), which analyzed more than 75,000 firearm trace requests, reported that more than 11% of firearms picked up in crime in major urban centers throughout the United States were possessed by juveniles under age 18. In Los Angeles, the percentage of crime guns seized from juveniles was higher, at 13.4%. The same ATF study indicated that in the United States another 15% of crime guns were seized from persons 18-20 years old, more than from any other three-year age group, adult or juvenile. Moreover, ATF tracing of trafficked crime guns found that more than 45% of the weapons seized were illegally possessed by convicted felons. Large percentages of these guns have been used in assaults, robberies, homicides, and other violent crimes.

78. Despite these statistics, Defendants have not taken reasonable steps to keep handguns out of the hands of minors. To the contrary, Defendants market their products in such a way that they appeal to minors. For example, one of the gun industry's leading trade associations, Defendant National Shooting Sports Foundation (NSSF), announced in 1992 a "new focus on women and youngsters." NSSF started a "Youth Education Program" in a search for new customers and expansion of the gun market. The September/October 1992 issue of NSSF's magazine S.H.O.T. Business carried a column by a noted celebrity in the industry, Grits Gresham, in which he said:

"There's a way to help insure that new faces and pocketbooks will continue to patronize your business: Use the schools. . . . [I]t's time to make your pitch for young minds, as well as for the adult ones."

79. The ease with which handguns are moved into the illegitimate marketplace is also demonstrated by the short time between retail sale and criminal misuse for a significant percentage of firearms. ATF tracing data indicates that as many as 43% of firearms traced to crime in cities across America have been bought from retail dealers less than three years earlier, which

1 according to ATF is a strong indication that the firearm has been trafficked. An ATF study of
2 Southern California crime guns, including those picked up in Los Angeles County, found that 31%
3 of the guns traced had been purchased from a licensed dealer less than one year earlier. This same
4 study noted that handguns were especially prone to quick turnaround; a third of the crime guns that
5 were handguns were seized within one year of being purchased, and more than half were seized
6 within two years.

7 III.

8 DEFENDANTS HAVE CREATED A DISTRIBUTION SYSTEM 9 THAT FACILITATES AND SUPPLIES AN ILLEGITIMATE 10 SECONDARY MARKET OF HANDGUNS

11 80. Defendants, and each of them, employ marketing and distribution policies and
12 practices that facilitate, promote and yield high volume sales, widespread availability and easy access
13 without any meaningful attention to or concern for their consequences.

14 81. Defendants, and each of them knew, or should have known, for at least four
15 years prior to the filing of this Complaint, that a substantial percentage of the handguns they design,
16 manufacture, market, distribute, advertise, promote, supply and sell are purchased by unauthorized
17 persons, including minors and convicted criminals. Many of the guns illegally sold in this market
18 are subsequently used in the commission of crime. Defendants, and each of them, knew, or should
19 have known, that their manufacturing, marketing, distributing, advertising, promotional, supplying
20 and sales acts and practices would facilitate and encourage their handguns to flow into an
21 illegitimate secondary market and be purchased, possessed and used by unauthorized persons.
22 Further, it was foreseeable that defendants' manufacturing, marketing, distributing, advertising,
23 promotional, supplying and sales acts and practices would facilitate handguns to flow into an
24 illegitimate secondary market and be purchased, possessed and used by unauthorized persons.

25 A. Defendants Over-Saturate the Legitimate Market.

26 82. Defendants, and each of them, produce, market and distribute substantially
27 more handguns than they reasonably expect to sell to legal purchasers. There are approximately 65
28 million handguns in the United States, and about 2.5 million more are added each year. A

1 substantial percentage of these sales are diverted to an illegitimate secondary market. By
2 deliberately producing, marketing and distributing more handguns than they can reasonably expect to
3 sell to legal purchasers, defendants, and each of them, knowingly participate in and facilitate the
4 illegitimate secondary market for handguns.

5 **B. Defendants Over-Saturate Jurisdictions With Weak Gun Control Laws.**

6 83. Handguns move from jurisdictions with relatively weak gun control laws to
7 jurisdictions with stronger gun control laws. Defendants, and each of them, knew of or should have
8 known of, for at least four years from the filing of this Complaint, this illegal trafficking movement,
9 yet did nothing to control or monitor sales in weak gun control jurisdictions to restrict illegal
10 trafficking of guns from those jurisdictions into more heavily regulated jurisdictions. To the
11 contrary, defendants, and each of them, eagerly sell as many handguns as are necessary to meet the
12 demands of the illegitimate secondary market in weak gun control jurisdictions. As an example of
13 this problem, Arizona and Nevada both border California and have weaker gun control laws than this
14 State. According to ATF statistics, approximately 30% of the firearms traced in Southern California
15 were originally sold at retail locations outside of California, principally Nevada and Arizona.
16 Although this movement of handguns across state lines contravenes federal law as well as reduces
17 the efficacy of California and local law, Defendants, and each of them, continue to facilitate and
18 encourage this movement of handguns.

19 **C. Defendants Distribute Handguns Without Exercising Adequate Control.**

20 84. Defendants' employment of a two-tier distribution system maximizes their
21 sales without any check or precaution, and without placing effective controls on their distributors or
22 dealers, which include disreputable gun shops, pawnshops, gun shows, and telemarketers. Although
23 Defendants' distribution practices increase sales volumes and hence profits, they minimize contacts
24 between Defendant Manufacturers and Defendant Distributors and Defendant Dealers, thereby
25 precluding any meaningful monitoring of compliance with federal, state and local laws.

26 85. Defendant Manufacturers, and each of them, do not monitor or supervise their
27 distributors or dealers, except in ways aimed at maximizing profits. Certain Defendants have
28 distribution agreements that provide for the right of termination, and on occasion, have terminated or

1 warned distributors or dealers. However, the reasons contemplated for termination are not
2 maintaining minimum prices, advertising the price that the distributor pays to the manufacturer, or,
3 in some instances, selling to law enforcement or making foreign sales. However, engaging in a
4 dangerous and unfair sales practice that makes handguns easily available for potential criminal use
5 has not been the basis for termination and is not included in the terms of the distribution agreements.
6 There is no sanction, such as termination, specified within the distribution agreements for the act of
7 selling to or facilitating the illegitimate secondary market.

8 86. Defendant Manufacturers, and each of them, do not require that their dealers
9 and retailers be trained or instructed to: (1) detect illegal and straw purchasers; (2) educate or require
10 any training or instruction of purchasers about the safe and proper possession, use and storage of
11 handguns; or (3) inquire or investigate purchasers' level of knowledge or skill or purposes for buying
12 handguns. Defendant Manufacturers, and each of them, do not train, monitor or supervise their
13 distributors and dealers to insure that handguns are sold to authorized users, and possessed, used and
14 stored in a safe manner.

15 87. Defendant Manufacturers, and each of them, purposely avoid any connection
16 to or vertical integration with the distributors and dealers that sell their products. They offer high
17 volume monetary incentives and generally refuse to accept returns, and they contractually attempt to
18 shift all liability and responsibility for the harm done by their products to the distributors and dealers.

19 88. Defendants, and each of them, do not use available computerized inventory
20 and sales tracking systems that are commonly and inexpensively used throughout American industry,
21 particularly in industries that produce dangerous or harmful products. Such systems are utilized, in
22 part, for the purpose of limiting and screening customers.

23 89. Unlike other manufacturers of dangerous or harmful products, including
24 manufacturers of chemicals and paints, Defendant Manufacturers, and each of them, have completely
25 failed and refused to adopt any limits in the distribution of their handguns or to engage in even
26 minimal monitoring or supervision of their distributors and dealers, to avoid the known and
27 foreseeable detrimental consequences arising from the possession, use and storage of handguns.

1 **D. Defendants' Practices Facilitate "Straw Purchases" and Multiple Sales.**

2 90. Defendant Manufacturers, and each of them, do not require or encourage their
3 distributors and dealers to limit the number, purpose or frequency of handgun purchases, nor do they
4 monitor or supervise their distributors or dealers to encourage practices or policies that limit access
5 to handguns for criminal purposes. As a direct, foreseeable and known result of defendants'
6 aforesaid conduct, a large number of handguns are regularly diverted to the illegitimate secondary
7 market through "straw purchases "

8 91. A "straw purchase" occurs where the lawful purchaser of the handgun, as
9 reflected in the governmental application forms, is a "dummy" purchaser for someone else, most
10 often a person who is not qualified to purchase the handgun under the applicable federal, state and
11 local laws. In some situations, the real purchaser will be present during the sale of the handgun. He
12 or she may select the handgun, handle it and even provide the cash for the purchase. In other
13 situations, for example in a straw purchase for gang members, the straw purchaser will purchase a
14 number of handguns within a short period of time. In this situation, a straw purchaser may engage in
15 repeated multiple handgun purchases.

16 92. Straw purchases account for a substantial percentage of handguns diverted
17 into the illegitimate secondary market. According to a recent study, more than one-half of the
18 firearms subject to firearm trafficking investigations were initially acquired as part of a straw
19 purchase. Another study, this one involving firearms seized by law enforcement officials in
20 Southern California, revealed that more than 80% of the guns retrieved by law enforcement were in
21 the possession of a person other than the original purchaser.

22 93. Similarly, the level of multiple sales in California is substantial. One recent
23 law enforcement study of Southern California analyzed 5,743 instances of multiple sales over a nine-
24 month period involving the purchase of 13,181 guns. A significant percentage of these transactions
25 involved the purchase of three or more guns at a time. The report concluded that "[m]ultiple
26 purchases seem relatively common in California, where there has been no set limit to the number of
27 guns that a private person can purchase." More recent data indicates that as many as 22% of all
28 handguns purchased in California in 1998 were part of multiple sales.

1 94. Although straw purchases often occur under circumstances that indicate, or
2 should indicate, that a straw purchase is being made, Defendants, and each of them, take no steps to
3 prevent these straw purchases from occurring or to limit the number of straw purchases that occur.
4 For example, Defendant Manufacturers, and each of them, offer no training or guidance to enable a
5 retail store clerk to recognize when a straw purchase is occurring. Similarly, Defendants, and each
6 of them, undertake no remedial actions to prevent a known straw purchaser from continuing to make
7 purchases. Defendant Manufacturers, and each of them, fail to adequately supervise and monitor
8 both their distributors and dealers with respect to straw purchases. Additionally, Defendant
9 Manufacturers, and each of them, do not investigate their distributors and dealers or review their
10 records to determine whether straw purchases are occurring or the extent to which they are. Finally,
11 Defendant Manufacturers, and each of them, fail to impose any sanctions against distributors and
12 dealers, including possible termination of the relationship, upon learning that a straw purchase or a
13 series of straw purchases has occurred.

14 **E. Defendants Allow Sales to "Kitchen Table" Dealers Which Supply the Criminal**
15 **Market.**

16 95. "Kitchen table" dealers are handgun dealers who do not sell handguns from an
17 established retail store but rather sell handguns in informal settings, including, but not limited to, a
18 house, car, flea market, gun show, or even on the street. Many of these kitchen table dealers operate
19 illegally, in violation of state and local licensing and zoning laws. Many of these dealers also engage
20 in other corrupt practices, including, but not limited to, selling handguns without completing the
21 appropriate and necessary background checks on the purchaser, failing to report sales, failing to
22 keep records of sales, falsifying records of sales, obliterating serial numbers on firearms, and falsely
23 claiming that sold guns were stolen.

24 96. Defendants, and each of them, knew, or should have known, about the
25 practices of kitchen table dealers set forth herein. Defendants, and each of them, have nevertheless
26 marketed, distributed and sold thousands of guns to kitchen table dealers, without taking appropriate
27 steps to prevent unlawful sales of handguns by such dealers. Such steps include, but are not limited
28 to, supervising and monitoring such dealers, tracking crime gun trace requests relating to such

1 dealers, reviewing dealer records for inaccuracies and falsified information, requiring distributors to
2 sell guns only to dealers with a permanent store location, and requiring all dealers to maintain a
3 permanent store location.

4 **F. Defendants' Products Are Illegally Sold At Gun Shows.**

5 97. Gun shows are events at which private citizens and federally-licensed gun
6 dealers, collectors and hobbyists congregate to buy and sell firearms and related paraphernalia. On
7 almost every weekend of the year, across the United States, gun shows are held in auditoriums, at
8 fairgrounds, and other public outlets. "Hobbyists" — individuals without Federal Firearms
9 Licenses — routinely sell guns from their "personal collections" at gun shows without following any
10 of the requirements imposed upon holders of Federal Firearms Licenses. In addition, guns are
11 routinely sold at gun shows without any form of background check on purchasers, resulting in
12 substantial sales to criminals and underage purchasers.

13 98. Defendants, and each of them, knew, or should have known, about the sales of
14 their products at gun shows as alleged herein. Defendants, and each of them, have nevertheless
15 failed to take any steps to prevent the unlawful sales of guns at gun shows.

16 **G. Defendants Design Weapons Without Features to Discourage Unauthorized Use.**

17 99. Handgun trafficking depends upon the ability of unauthorized users to operate
18 weapons obtained from traffickers and the inability to trace handguns. Designs and features that
19 promote these factors, such as those that prevent unauthorized use or facilitate tracking of handguns,
20 would discourage trafficking and reduce the flow of weapons to the illegitimate secondary market.
21 Notwithstanding the availability and feasibility of incorporating such designs and features into
22 handguns, Defendants, and each of them, have continued to manufacture, distribute and sell
23 handguns that do not include a design or feature preventing unauthorized use.

24 100. Thousands of handguns diverted to crime also have had their serial numbers
25 obliterated to prevent tracing of the firearm by law enforcement. Such handguns are more useful to
26 criminals who seek to eliminate the tracks of their crimes. Defendants, and each of them, are aware
27 of this problem, and the ease with which serial numbers can be obliterated, but have taken no
28 initiative to make their serial numbers tamper-proof. The recent ATE study of 27 cities found, on

1 average, that more than 11% of the guns traced to crime had obliterated serial numbers. Another
2 study identified a single corrupt dealer in Southern California who obliterated the serial numbers on
3 a major portion of 1,200 guns the dealer diverted to the criminal marketplace.

4 IV.

5 **DEFENDANTS HAVE DESIGNED HANDGUNS TO APPEAL TO CRIMINALS** 6 **AND HAVE INCREASED PRODUCTION TO MEET DEMAND** 7 **FROM THE ILLEGAL MARKET**

8 101. Over the last 20 years, Defendants, and each of them, have changed certain
9 design features of handguns to appeal to the illegitimate secondary market. Previously, most
10 handguns produced were revolvers, with six bullets stored in a rotating cylinder that could not be
11 reloaded quickly. Now most handguns are semi-automatic with bullets stored in magazines. These
12 handguns fire at a faster rate, and their magazines typically can be detached and replaced very
13 quickly, allowing for sustained firing against multiple targets.

14 102. Handguns are increasingly smaller, easier to conceal, more powerful and,
15 hence more lethal and rapid-firing. Many are also considerably cheaper than in the past. All of these
16 factors make contemporary handguns appealing to criminals.

17 103. The production of cheap handguns has been especially prevalent among
18 Defendants AMT, Lorcin, Bryco, Davis, Phoenix Arms, and Sundance. This group of California
19 manufacturers are all within 50 miles of the County of Los Angeles and has been dubbed by a well-
20 known researcher as the "Ring of Fire." Older, established companies, such as Defendants Smith &
21 Wesson, Sturm, Ruger & Co., and Colt, have followed the lead of the "Ring of Fire" companies,
22 producing lines of similar inexpensive handguns.

23 104. Defendant Manufacturers, and each of them, have increased the production of
24 particular handguns that are popular for use by criminals. For example, over the past decade.
25 Defendants, and each of them, increased their production of 9-millimeter handguns although their
26 own market research showed that the market for 9 millimeters handguns among law-abiding
27 purchasers was already saturated. Nine-millimeter handguns are popular in the illicit drug trade and,
28 according to most national studies, are among the handguns used most frequently in crime. A recent

1 study concluded that 9 millimeter handguns are the weapons of choice for criminals, accounting for
2 almost a third of all homicides.

3 105. Defendants, and each of them, knew, or should have known, that they
4 manufacture, market and design handguns which emphasize concealability, lethality, and other
5 features attractive to criminals. Defendants' emphasis on concealability is particularly problematic in
6 California, where state law bans possession of a concealed weapon without a concealed-carry permit,
7 of which few have been issued.

8 V.

9 **DEFENDANTS' CONDUCT UNDERMINES THE PUBLIC POLICY**
10 **EMBODIED IN LOCAL, STATE AND FEDERAL LAWS**

11 106. Federal, state and local firearm laws have been enacted in an effort to curb the
12 abuses of gun violence and to protect the general public's health and safety. Despite the fact that all
13 levels of government have implemented statutes and ordinances to lessen the incidences of gun
14 violence, Defendants, and each of them, have manufactured, designed, distributed, marketed and
15 sold handguns in ways that undermine and impede the public policies embodied in both state and
16 local law. The conduct and practices of Defendants, as set forth herein, have undermined and
17 impeded the restrictions, prohibitions, and public policies set forth in local, state and federal laws
18 and regulations including, but not limited to: Title 18, United States Code §§ 921 – 930 *et seq.*
19 (Chapter 44 – Firearms); California Penal Code §§ 12020-12040 *et seq.* (Chap. 1, Article 2 –
20 Unlawful Carrying and Possession of Weapons); 12050 - 12054 *et seq.* (Chap. 1, Article 3 –
21 Licenses to Carry Pistols and Revolvers); 12070 - 12085 *et seq.* (Chap. 1, Article 4 – Licenses to Sell
22 Firearms); 12200 –12250 *et seq.* (Chap. 2 – Machine Guns); 12270 -12290 *et seq.* (Roberti-Roos
23 Assault Weapons Control Act of 1989); 12100 *et seq.* (Chap. 1, Article 7 – Juveniles - Prohibition of
24 Sale or Transfer of Concealable Firearm to Minors); 12500 – 12520 *et seq.* (Chap. 5, Articles 1 and
25 2 – Unlawful Possession of Firearm Silencers/Misc.); 12800 – 12809 *et seq.* (Chap. 6, Article 8 –
26 Basic Firearms Safety Instruction and Certificate); Los Angeles County Code, Chapters 7.46 and
27 13.65.
28

1 107. For example, the California Roberti-Roos Assault Weapons Control Act of
2 1989, California Penal Code §§ 12275 –12290, and the United States 1968 Gun Control Act, as
3 amended, 18 U.S.C. § 925 *et seq.*, ban the importation, manufacture, sale, and possession of "assault
4 weapons," including handguns. As the California legislature found and declared, this ban is based
5 on the conclusion that such assault weapons "are particularly dangerous in the hands of criminals and
6 serve no necessary hunting or sporting purpose for honest citizens." The ban enacted by the
7 California legislature explicitly applies to both listed weapons and "any other models which are only
8 variations of those weapons with minor differences, regardless of manufacturer."

9 108. Despite the enactment of the California Roberti-Roos Assault Weapons
10 Control Act of 1989, Defendant Navegar has marketed and sold in California assault weapon
11 handguns substantially similar to or identical to the one banned by the statutes. In fact, Defendant
12 Navegar has made only minor modifications to the banned assault weapon handguns or renamed the
13 ones enumerated in the above-referenced statutes in order to avoid these laws. For example, after the
14 California legislature banned the TEC-9 assault weapon, Defendant Navegar continued to distribute
15 and sell the identical assault weapon handgun in California under the name "TEC-DC9." Navegar
16 later distributed and sold a handgun under the name "TEC-DC9" that was the same design as the
17 banned TEC-9, with only cosmetic modifications. At all relevant times, Defendant Navegar has
18 been on notice of the lethal consequences of this practice. Navegar's assault weapon handguns have
19 frequently been used in multiple homicides, including the 101 California Street massacre in which a
20 gunman killed eight and injured six law firm employees at a San Francisco office building.

21 109. Additionally, numerous local ordinances prohibit the sale of "junk guns" or
22 "Saturday Night Specials" in Los Angeles County, including, but not limited to Los Angeles County
23 Code Chapter 13.65. The "Saturday Night Special" ("SNS") ordinances enacted in over 40
24 jurisdictions throughout California were designed to protect the public from poorly made, easily
25 concealable handguns. These handguns have been, and continue to be, frequently used in the
26 commission of crimes. Notwithstanding these ordinances, certain Defendants unlawfully market,
27 distribute or sell prohibited "Saturday Night Specials" adjacent to jurisdictions banning such sales.

110. On July 20, 1999, Governor Gray Davis signed into law the nation's most comprehensive ban on assault-style weapons. The new law outlaws weapon characteristics, instead of named weapons, essentially banning the manufacture, import or sale of any semi-automatic rifles or pistols that can hold more than 10 rounds of ammunition or can be easily concealed, or have any one of various accessories like pistol grips or folding stocks — a stricter standard than the existing federal ban on some 20 types of assault weapons. The new law also makes it a crime to manufacture, import, sell or give away any magazine that can hold more than 10 rounds of ammunition. Governor Davis also signed a separate measure barring any individual from buying more than one handgun in a month.

VI.

DEFENDANTS HAVE FAILED TO INCORPORATE FEASIBLE AND EXISTING SAFETY TECHNOLOGY INTO THE DESIGN AND DISTRIBUTION OF FIREARMS

A. Adequate Warning and Safety Features Would Prevent Many Unintentional Shootings.

111. Defendants, and each of them, contribute to the serious harm inflicted on residents of Los Angeles County and citizens throughout the State, by failing to adequately warn users and to incorporate feasible and existing safety technology into the design of handguns, that would prevent shootings and their unauthorized possession and use. Defendants, and each of them, have designed, manufactured, made or sold handguns that are unreasonably dangerous because they lack basic safety features and contain inadequate warnings, all of which results in unintentional shootings. Defendants, and each of them, over-promote the purported self-defense and home protection benefits of their guns, in a manner that undercuts any warnings or instructions regarding safe storage of guns, and results, not only in irresponsible people possessing guns, but in the irresponsible storage and handling of guns. Defendants, and each of them, market and promote their handguns in a manner that ignores or understates the risks that such handguns pose to their owners and to other members of the household. Defendants' marketing and promotional practices encourage unsafe storage practices and unsafe use of their products.

1 112. Defendants, and each of them, knew, or should have known, that
2 approximately half of California residents who keep a firearm at home, a substantial percentage that
3 includes children, store their guns in an unsafe manner, and yet continued to distribute their
4 handguns without adequate warnings and instructions that inform the users of the risks of guns,
5 including proper storage and use of the weapons.

6 113. Defendants, and each of them, manufacture, distribute and sell handguns that
7 are unreasonably dangerous in that their design lacks safety features or contains inadequate safety
8 features. Defendants, and each of them, knew, or should have known, that users of semi-automatic
9 handguns would not understand or appreciate that an undetectable round of ammunition may be
10 housed in the firing chamber of a semi-automatic gun even though the ammunition magazine had
11 been removed or emptied. Consequently, it was, and continues to be, reasonably foreseeable that
12 this hazardous design would result in preventable, unintentional shootings. This hazardous design
13 could be easily corrected through the use of a "magazine-disconnect safety" that would prevent the
14 gun from firing with the magazine removed. These tragic, foreseeable shootings could also be
15 prevented by use of "chamber loaded indicator" that would warn a user when a bullet was in the
16 firing chamber. Defendant Manufacturers, and each of them, have failed to incorporate such devices
17 into their firearms.

18 114. Defendants' failure to incorporate adequate warnings and feasible safety
19 designs into firearms results in 1,400-1,500 unintentional shooting deaths and over 18,000 non-fatal
20 injuries from unintentional shootings every year. The U.S. General Accounting Office estimates that
21 each year, 23% of the unintentional shooting deaths occur because the user of the gun was not aware
22 that a round of ammunition had been loaded into the gun's firing chamber. This results in as many as
23 320 to 345 deaths nationwide each year. For each of these deaths, there are countless other
24 unintentional shooting injuries that are not fatal.

25 115. Unintentional shootings with Defendants' unsafe handguns often involve
26 adolescents. Adolescents are foreseeably attracted to guns and typically do not understand the risks
27 associated with handling a handgun. According to the U.S. General Accounting Office,
28

1 approximately 35% of all unintentional shooting deaths involve users of guns who were between the
2 ages of 10 to 13. Many such shootings have occurred in the State of California.

3 116. Defendants, and each of them, have failed to take reasonable steps to guard
4 against foreseeable unintentional shootings. Such reasonable steps include, but are not limited to,
5 designing their handguns with basic safety features and giving adequate warnings that would prevent
6 or reduce such unintentional shootings. Defendants, and each of them, were aware of, and had
7 available to them, devices, features, warnings, and other measures, which would prevent and
8 decrease the dangers of their products. Defendant Manufacturers, and each of them, have failed to
9 adequately warn customers of the dangers associated with handguns, failed to inform distributors,
10 dealers and buyers of available devices and measures that could prevent or decrease these dangers,
11 failed to incorporate safety devices and features into their handguns and impeded the development
12 and implementation of safety devices and features into their handguns. Defendant Trade
13 Associations, and each of them, failed to adopt adequate guidelines or standards relating to the
14 development and inclusion of such features in handguns. Defendants, and each of them, knew, or
15 should have known, that as a consequence of their actions. California residents have been, and will
16 continue to be killed or seriously injured.

17 B. Personalized Safety Technology Would Prevent Access to Firearms by
18 Unauthorized Users.

19 117. The unsafe and unreasonably dangerous design of Defendants' handguns
20 results in thousands of shootings each year by persons who are not authorized by law to possess a
21 handgun, or who, by reason of immaturity or other disability, do not appreciate the risks involved
22 with handguns. Such shootings often occur when an adolescent or a criminal improperly obtains
23 possession of a handgun.

24 118. Adolescent homicides and suicides are usually committed with a handgun that
25 the adolescent has obtained from his or her home. In California, millions of minors live in homes
26 where handguns are present. Studies have indicated that the odds that potentially suicidal minors
27 will kill themselves double when a gun is kept in the home. Moreover, nationwide for many years, a
28 youth aged 10-19 has committed suicide with a firearm at a rate of about once every six hours.

1 Firearms are used in 65% of male teen suicides and 47% of female teen suicides. In California, in
2 1996, there were 107 suicides of youth aged 19 and below.

3 119. At all pertinent times, it was reasonably foreseeable that Defendants' handguns
4 would fall into the hands of unauthorized users. There are guns in approximately one-half of the
5 homes in this country. One survey reports that 30% of gun-owners who have minors in the home
6 keep their guns loaded. Another survey reports that 36% of gun owners with minors in the home
7 keep their guns unlocked. The Federal Centers for Disease Control and Prevention estimates that 1.2
8 million elementary-aged, latchkey children have access to guns in their homes. Moreover, nearly
9 60% of juveniles between the ages of 10 and 19 have responded in surveys that they can acquire a
10 handgun should they want one.

11 120. At all pertinent times, Defendants, and each of them, knew, or should have
12 known, that when unauthorized users gained access to Defendants' handguns, tragic and preventable
13 shootings would result. Many teen suicides and shootings by minors and other unauthorized users
14 could be prevented had Defendants implemented safer handgun designs, including personalized
15 handgun technology that would prevent an unauthorized user from being able to fire the handgun.
16 Further, Defendants, and each of them, knew, or should have known, that by failing to make and sell
17 handguns with the means to prevent their firing by unauthorized users, it was reasonably foreseeable
18 that handguns stolen from private residences, gun stores and other locations could be employed by
19 unauthorized users in violent criminal acts.

20 121. A study by the Johns Hopkins University School of Hygiene and Public
21 Health's Center for Gun Policy and Research concluded that "[p]ersonalized handguns can eliminate
22 many deaths and injuries by preventing the unauthorized firing of the firearm. . . . [and] can be
23 especially effective in preventing teenage [deaths], unintentional deaths and injuries of children, and
24 shootings of police officers."

25 122. Defendants' dangerous and unsafe products have repeatedly victimized
26 California residents. At all pertinent times the Defendants manufactured, distributed, marketed,
27 designed, promoted and sold their handguns, Defendants, and each of them, knew, or should have
28 known, of the dangers of their handguns, including those described herein. Defendants, and each of

1 them, knew of, or should have known of, and had available to them, personalized safety features,
2 warnings, and other measures, that would prevent and decrease the dangers of their products.
3 Defendant Manufacturers, and each of them, nevertheless failed to remedy the deficiencies in their
4 handguns. Defendant Manufacturers, and each of them, further failed to incorporate personalized
5 safety features into their handguns and impeded the development and implementation of
6 personalized safety features. Defendant Trade Associations, and each of them, similarly failed to
7 adopt adequate guidelines or standards relating to the development and inclusion of such
8 personalized safety features in handguns. Defendants, and each of them, knew, or should have
9 known that, as a consequence of their aforementioned conduct, California residents would be killed
10 or seriously injured.

11 C. **Defendants Have Failed to Compete in the Marketplace to Develop Firearms**
12 **with Personalized Safety Technology.**

13 123. A handgun with personalized safety features sufficient to prevent, or
14 significantly reduce, the risk of unauthorized use would have the potential to appeal to a large
15 segment of the legitimate handgun market. Despite this market appeal, Defendant Manufacturers,
16 and each of them, have failed to compete in the marketplace to develop and market handguns with
17 such safety features.

18 124. Defendant Trade Associations, and each of them, have likewise discouraged
19 the development of such safety features. For example, Defendant SAAMI holds itself out to the
20 public as having been, since 1926, "the principal organization in the United States actively engaging
21 in the development and promulgation of product standards for firearms and ammunition." Although
22 SAAMI has promulgated numerous product standards for the firearms industry, it has failed to
23 develop any standards relating to personalized safety devices.

24 125. Instead of encouraging Defendant Manufacturers to develop safer products
25 and distribution practices, Defendant Trade Associations, and each of them, have sought to
26 discipline industry members who attempted to address safety issues. For example, when Defendant
27 Smith & Wesson was faced in 1976 with a public outcry that might have resulted in a ban of most
28 handguns in Massachusetts, Smith & Wesson announced that, as an alternative, it would support

1 screening and registration of handgun owners. For this breach of industry policy, Smith & Wesson
2 faced censure or ouster from SAAMI. To avoid possible action by SAAMI, Smith & Wesson for a
3 time withdrew from SAAMI, then conformed its proposals and positions to industry policies.

4 VII.

5 DEFENDANTS' FALSE, DECEPTIVE AND MISLEADING 6 STATEMENTS AND ADVERTISEMENTS UNDERMINE MINIMUM 7 WARNINGS ON PROPER STORAGE OF HANDGUNS

8 126. For at least four years preceding the filing of this Complaint, and continuing to
9 date, Defendants, and each of them, have misled, deceived and confused members of the general
10 public in California regarding the safety of handguns and the need for handguns within the home.
11 To increase sales and profits, Defendants, and each of them, have falsely and deceptively claimed
12 through advertising and promotion of their handguns that the ownership and possession of handguns
13 in the home increases one's security. For example, certain Defendant Manufacturers have promoted
14 handguns with slogans such as "homeowner's insurance," "tip the odds in your favor," and "your
15 safest choice for personal protection." Research demonstrates that, to the contrary, handguns
16 actually increase the risk and incidence of homicide, suicide and intentional and unintentional
17 injuries to gun owners and their families and friends. Defendants' promotional efforts have negated
18 and undercut any warnings they have provided regarding the risks of handguns in the home.

19 127. Defendants, and each of them, have made these false and deceptive statements
20 even though they knew or should have known, that studies and statistics demonstrate that the
21 presence of handguns in the home increase the risk of harm to firearm owners and their families, as
22 set forth in the following statistics:

- 23 a. One out of three handguns is kept loaded and unlocked in the home;
- 24 b. Studies that control for the relevant variables have demonstrated that the
25 homicide of a household member is almost three times more likely in homes with guns than in
26 homes without them, suicide is five times more likely; and for homes with teenagers, a suicide is ten
27 times more likely;
- 28

1 c. Studies have also shown that a gun in the home is at least 22 times more likely
2 to kill or injure a household member than it is to kill or injure an intruder in self defense;

3 d. A firearm is used for protection in fewer than two percent of home invasion
4 crimes;

5 e. For every time a gun in the home was used for self-defense or a legally
6 justifiable shooting, there were four unintentional shootings, seven criminal assaults or homicides,
7 and eleven attempted or completed suicides.

8 128. Defendants' advertising and promotion activities deceptively convey the
9 message that possession of a handgun, along with the enhanced lethality of particular handguns, will
10 increase the personal safety of the owner and owner's household. Defendants, and each of them, fail
11 to include any information or warning about the relative risk of keeping a handgun in the home. By
12 failing to disclose such risks, the advertisements and promotions fail to correct a material
13 misrepresentation in the minds of many consumers.

14 129. The U.S Commission on the Causes and Prevention of Violence in a 1968
15 article entitled "Handguns and Violence in American Life," noted an increasing number of firearm
16 deaths and injuries and concluded:

17 [Americans] may seriously overrate the effectiveness of guns in
18 protection of their homes. In our urbanized society the gun is rarely an
19 effective means of protecting the home against either the burglar or the
20 robber. . . . [A gun in the home] provides a measure of comfort to a
21 great many Americans, but, for the homeowner, this comfort is largely
22 an illusion bought at the high price of increased accidents, homicides,
23 and more widespread illegal use of guns. . . . When the number of
24 handguns increases, gun violence increases. (Pages xiii, 139.)

25 130. In California, a substantial number of deaths and injuries have occurred each
26 year because handguns were purchased for home protection but were, thereafter, used in
27 unintentional shootings, teen suicides, domestic disputes and other acts of violence as set forth
28 herein. Defendants, and each of them, choose to disregard these well-known statistics and data in an
effort to promote their handguns as security or "insurance" for the home, and to increase their sales
and profits.

131. Moreover, although Defendants, and each of them, state publicly that they
seek to preclude minors and criminals from possessing handguns, they, in fact, are engaging in acts

1 and practices that facilitate the illegal possession of handguns by minors and criminals through the
2 illegitimate secondary market. Defendants then utilize the threat posed by the criminal misuse of
3 handguns — a threat that their own practices have helped to create — to market and sell more
4 handguns to the "home protection" market.

5 **VIII.**

6 **DEFENDANTS HAVE PROFITED FROM THEIR UNFAIR,**
7 **UNLAWFUL OR FRAUDULENT BUSINESS PRACTICES AT**
8 **THE EXPENSE OF CALIFORNIA AND ITS RESIDENTS**

9 132. Defendants' unfair, unlawful and fraudulent acts and practices have
10 contributed to the overall success and profit for the \$2-\$3 billion firearm industry. Defendants, and
11 each of them, knew, or should have known, that the thousands of handguns distributed through the
12 illegitimate secondary market cause substantial injury and harm to California residents. Defendants'
13 actions and omissions set forth herein facilitate violations of federal, state and local laws or negate
14 and undermine the public policies established by those laws, contribute to physical harm, fear and
15 inconvenience to California residents, and are injurious to the public health, well-being and safety of
16 California residents, and, in general, contribute to the degradation of the quality of life of
17 communities throughout the State of California. Defendants' conduct, as set forth herein, has
18 directly and indirectly injured and harmed California residents in the form of loss of life, injury,
19 increased criminal activity involving handguns, law enforcement costs, medical costs and emergency
20 response costs. Said conduct has allowed Defendants to profit from their unfair, unlawful and
21 fraudulent business practices, thereby contributing to Defendants' overall financial success and
22 vitality at the expense of California and its residents.

23 **FIRST CAUSE OF ACTION**

24 **PUBLIC NUISANCE**

25 **(Against All Defendants)**

26 133. Paragraphs 1 through 132 are repeated and realleged as if set forth herein.

27 134. The citizens of Los Angeles County have a common right to be free from
28 conduct that creates an unreasonable jeopardy to the public health, welfare and safety and to be free

1 from conduct that creates a disturbance and reasonable apprehension of danger to person and
2 property.

3 135. Defendants' ongoing conduct has created and maintained a public nuisance in
4 Los Angeles County and throughout Southern California, as thousands of handguns that they directly
5 or indirectly supply to the illegitimate secondary market are thereafter used and possessed in
6 connection with criminal activity in Los Angeles County and throughout Southern California. As a
7 result of the use of many of these handguns, residents of Los Angeles County have been killed and
8 injured, fear for their health, safety and welfare and are subjected to conduct that creates a
9 disturbance and reasonable apprehension of danger to their person and property.

10 136. Defendants' ongoing conduct, as set forth herein, constitutes a public nuisance
11 in Los Angeles County and throughout Southern California because it is an unreasonable
12 interference with common rights enjoyed by the general public.

13 137. Defendants' ongoing conduct, as set forth herein, is an unreasonable
14 interference with common rights enjoyed by the general public in Los Angeles County and
15 throughout Southern California because it significantly interferes with the public's health, safety,
16 peace, comfort and convenience.

17 138. Defendants' ongoing conduct, as set forth herein, is an unreasonable
18 interference with common rights enjoyed by the general public in Los Angeles County and
19 throughout Southern California because Defendants, and each of them, knew or should have known
20 the conduct to be of a continuous and long-lasting nature that produces a permanent and long-lasting
21 significant negative effect on the rights of the public.

22 139. Defendants' ongoing conduct, as set forth herein, produces an ongoing public
23 nuisance, as thousands of handguns that they directly or indirectly supply to the illegitimate
24 secondary market and are thereafter illegally used and possessed in Los Angeles County and
25 throughout Southern California, will remain in the hands of persons who will continue to use and
26 possess them illegally for many years. As a result of the continued use and possession of many of
27 these handguns, residents of Los Angeles County and throughout Southern California will continue
28 to be killed and injured by these handguns and the public will continue to fear for its health, safety

1 and welfare and will be subjected to conduct that creates a disturbance and reasonable apprehension
2 of danger to person and property.

3 140. The presence of illegitimately possessed and used handguns in Los Angeles
4 County proximately results in significant costs in order to enforce the law, arm the Sheriff's
5 Department and treat the victims of handgun crime. Stemming the flow of handguns into the
6 illegitimate secondary market will help to abate the nuisance, will save lives, prevent injuries and
7 will make Los Angeles County and Southern California a safer place to live.

8 141. Defendants' ongoing conduct, as set forth herein, constitutes a public nuisance
9 in Los Angeles County since it significantly interferes with the public's health, safety, peace, comfort
10 and convenience. Defendants, and each of them, knew, or should have known, the conduct to be of a
11 continuous nature that produces a permanent and significant negative effect on the rights of the
12 public. Defendants' conduct constitutes a public nuisance within the meaning of Civil Code § 3480
13 and this action is brought under Civil Code §§ 3490, *et seq.*, and Code of Civil Procedure § 731.
14 Los Angeles County has a clearly ascertainable right to abate conduct that perpetuates this nuisance.
15 Stemming the flow of handguns into the illegitimate secondary market will help to abate the
16 nuisance, will save lives, prevent injuries and will make Los Angeles County a safer place to live.

17 **SECOND CAUSE OF ACTION**

18 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**

19 **CODE § 17200 *ET SEQ.* FOR UNFAIR, UNLAWFUL AND**

20 **FRAUDULENT BUSINESS PRACTICES**

21 **(Against All Defendants)**

22 142. Paragraphs 1 through 141 are hereby incorporated as though fully set forth
23 herein.

24 143. Within the four years preceding the filing of this Complaint, Defendants, and
25 each of them, individually, and in concert, have engaged in unfair, unlawful and fraudulent business
26 practices (collectively "unfair competition") within the meaning of Business and Professions Code
27 § 17200. These acts of unfair competition have caused handguns to be distributed to an illegal
28

1 market of users and, additionally, have resulted in intentional and accidental shootings by
2 unauthorized users.

3 144. Defendants, and each of them, have distributed, promoted, advertised, sold
4 and marketed handguns using practices that encourage sales to unauthorized users, including minors
5 and criminals without adequately screening, supervising, monitoring or regulating their employees,
6 distributors and dealers, and without adequately training, instructing, advising or setting standards
7 for distributors and/or dealers of handguns, regarding how to legally and responsibly sell handguns.
8 Defendants, and each of them, have caused, permitted, and allowed their handguns to be promoted,
9 marketed, distributed, and disseminated to unauthorized persons, including criminals and minors,
10 and have failed or refused to take reasonable steps to ensure that their handguns were not acquired by
11 unauthorized persons.

12 145. Defendants, and each of them, knew, or should have known, that their
13 distribution practices were unsafe. Defendant Manufacturers and Distributors, and each of them,
14 have continued to make sales to distributors and dealers, even though they knew, or should have
15 known, that such distributors and dealers had distributed handguns to illegal purchasers and the
16 illegitimate secondary market. Defendants, and each of them, knew, or should have known, that by
17 distributing handguns without adequate supervision, controls and reporting, their distribution
18 practices facilitate the flow of handguns into the illegitimate secondary market. Despite this
19 knowledge, defendants, and each of them have failed to monitor and control the distribution of
20 handguns, failed to change their acts and practices or to adopt procedures that would deter the flow
21 of handguns to the illegitimate secondary market, including but not limited to, Defendants' failure to
22 implement a product marketing plan, an electronic inventory and sales tracking system, and or
23 customer coverage policies.

24 146. Defendant Manufacturers and Distributors, and each of them, have adopted
25 distribution policies that allow and encourage distributors and dealers to make sales to likely straw
26 purchasers, including sales involving large numbers of handguns in a single transaction. Certain
27 Defendant Manufacturers and Distributors have adopted distribution policies that allow sales to
28 dealers who do not maintain a retail place of business for the sale of their handguns.

1 147. Defendants, and each of them, produce, market and distribute substantially
2 more handguns than they reasonably expect to sell to legitimate purchasers. In particular,
3 Defendants, and each of them, over-saturate markets with handguns in jurisdictions with relatively
4 weak gun control laws to meet the demand of the illegitimate secondary market in jurisdictions with
5 more restrictive gun control laws.

6 148. Defendant Manufacturers and Distributors, and each of them, have distributed
7 handguns to dealers without requiring dealers to ensure that purchasers' identification,
8 documentation and address is accurate.

9 149. Defendants, and each of them, have designed their handguns to appeal to
10 criminals and have increased production to meet this demand.

11 150. Defendant Manufacturers, and each of them, have designed and sold handguns
12 without incorporating feasible safety features and personalized gun technology that would prevent
13 unintentional shootings and unauthorized and unintended users from gaining access to the handguns,
14 have impeded the development and implementation of such features and devices, and have not
15 competed with each other in the marketplace by introducing handguns utilizing such technology.
16 Defendant Manufacturers, and each of them, have designed and sold handguns without incorporating
17 feasible technology that would prevent persons from unlawfully obliterating the serial numbers
18 required by law to be placed on those guns.

19 151. Defendants, and each of them, sell their handguns without providing adequate
20 warnings and instructions regarding the storage or use of their handguns.

21 152. Defendant Manufacturers, and each of them, have over-promoted the
22 purported self-defense and home protection benefits of their handguns in a manner that negates or
23 undercuts any warnings or instructions regarding safe storage of handguns, and have deceived,
24 misled, and confused the citizens of California regarding the safety of handguns by marketing their
25 product in a manner that promotes the belief that the use of handguns will increase home safety and
26 security, without providing to the public the information available to Defendants which demonstrates
27 that handguns possessed in the home actually increase the risk and incidence of homicide, suicide,
28 and unintentional injuries to handgun owners, their families and friends.

1 153. Defendants, and each of them, have undermined the public policies embodied
2 in local, state, and federal laws, including but not limited to California Penal Code § 12020.5, which
3 bans any advertising in California of certain unlawful weapons, including assault weapons.

4 154. Certain Defendants have engaged in unlawful business practices by violating
5 or aiding and abetting the violation of the California Roberti-Roos Assault Weapon Control Act of
6 1989, California Penal Code §§ 12275-12290.

7 155. Within the four years preceding the filing of this Complaint, Defendants, and
8 each of them, individually and in concert, have also engaged in unfair competition within the
9 meaning of Business and Professions Code § 17200 by unlawfully creating and maintaining public
10 and private nuisances as follows:

11 a. Defendants, and each of them, have unlawfully violated Penal Code § 372 by
12 creating and maintaining a public nuisance as defined by Penal Code § 370;

13 b. Defendants, and each of them, unlawfully created and maintained a public
14 nuisance as defined by Civil Code §§ 3479 and 3480;

15 c. Defendants, and each of them, unlawfully created and maintained a private
16 nuisance as defined by Civil Code §§ 3479 and 3481.

17 156. Plaintiffs, pursuant to Business and Professions Code § 17203, seek an order
18 of this Court: (1) enjoining defendants from continuing to undertake these unfair business practices;
19 (2) ordering defendants to undertake a corrective advertising campaign warning consumers of the
20 dangers associated with owning a gun in the home and instruct hand gun owners of the proper way to
21 store handguns in the home; (3) ordering restitution to the public for all funds unfairly obtained by
22 defendants as a result of their violation of Business and Professions Code §§ 17200 *et seq.*; and
23 (4) ordering defendants to disgorge all revenues and profits acquired as a result of their unfair
24 business practices.

THIRD CAUSE OF ACTION
VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS
CODE § 17500 FOR DECEPTIVE, UNTRUE OR
MISLEADING STATEMENTS AND ADVERTISING
(Against All Defendants)

157. Plaintiff incorporates by reference paragraphs 1 through 156 as though fully set forth herein.

158. Defendants, acting individually and/or in concert, have made unfair, deceptive, untrue or misleading statements and advertisements in connection with the marketing and sale of firearms in violation of California Business and Professions Code §§ 17500, *et seq.* Defendants' unfair, deceptive, untrue or misleading statements include, but are not limited to, engaging in a campaign of deception and misrepresentation concerning the dangers of their firearms by disseminating advertisements and other statements which falsely state or imply that ownership of guns will increase home safety and security. Defendants knew or by the exercise of reasonable care should have known that home ownership of guns increases the risk of homicides, suicides and accidental injury or death in the home and that their advertisements and/or statements were untrue and/or misleading. Defendants failed to disclose the true nature of the risks associated with home ownership of guns or to correct their advertisements and/or statements despite their knowledge that they were misleading or wrong. Defendants' false or misleading statements and/or advertisements are and have been likely to deceive members of the general public in California.

159. Plaintiffs seek an order of this Court: (1) enjoining defendants from continuing to issue unfair, deceptive, untrue or misleading statements and advertising; (2) ordering defendants to undertake a corrective advertising campaign warning consumers of the dangers associated with owning a gun in the home and instruct hand gun owners of the proper way to store handguns in the home; (3) ordering restitution to the public for all funds unfairly obtained by defendants as a result of their violation of Business and Professions Code §§ 17500 *et seq.*; (4) ordering defendants to disgorge all revenues and profits acquired as a result of their violation of

1 Business and Professions Code §§ 17500 *et seq.*; and (5) ordering Defendants to pay civil penalties
2 as a result of their violation of Business and Professions Code §§ 17500 *et seq.*

3 **PRAYER FOR RELIEF**

4 Wherefore, Plaintiff prays for relief and judgment against the Defendants jointly and
5 severally, as follows:

6 1. On the First Cause of Action for public nuisance, for preliminary and
7 permanent injunctive relief, requiring Defendants and their respective successors, agents, servants,
8 officers, directors, employees and all persons acting in concert with them to cease and desist from
9 engaging in practices that create a public nuisance;

10 2. On the Second and Third Causes of Action, for injunctive and declaratory
11 relief pursuant to Business and Professions Code §§ 17203 and 17535:

12 a. Declaring that Defendants have engaged in unlawful, unfair, and
13 fraudulent business acts and practices in violation of Business and Professions Code §§ 17200 *et seq.*
14 and §§ 17500 *et seq.*, and

15 b. Enjoining Defendants and their respective successors, agents, servants,
16 officers, directors, employees and all persons acting in concert with them from engaging in conduct
17 in violation of Business and Professions Code §§ 17200 *et seq.* and §§ 17500 *et seq.*

18 3. For pre-judgment and post-judgment interest as provided by law;

19 4. For restitution and/or disgorgement of wrongfully obtained monies pursuant to
20 Business and Professions Code § 17203 and § 17535;

21 5. For civil penalties pursuant to Business and Professions Code § 17500;

22 6. For costs of suit as provided by law;

1 7. For attorneys' fees as provided by law; and

2 8. For such further relief as the Court deems equitable and just.

3
4 Dated: August 6, 1999

Respectfully submitted,

5 LLOYD W. PELLMAN
6 LAWRENCE B. LAUNER
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8 By:


9 LAWRENCE LEE HAFETZ

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14 and Yvonne Brathwaite Burke, Supervisors of
15 Los Angeles County, on behalf of the general
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