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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF ORANGE
11

12 GHOST GUNNER FIREARMS CASES

JCCP No. 5167

13 Included actions:

Superior Court of California
County of Orange
Case No. 30-2019-01111797-CU-PO-
CJC

15 30-2019-01111797-CU-PO-CJC *Cardenas v. Ghost
Gunner, Inc. dba GhostGunner.net, et al.*

Superior Court of California
County of San Bernardino
Case No. CIV-DS-1935422

17 CIV-DS-1935422 *McFayden, et al. v. Ghost Gunner,
Inc., dba GhostGunner.net, et al.*
18

19 Date: November 12, 2021
20 Time: 1:30pm
21 Dept.: CX 104
22 Judge: Hon. William D. Claster

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24 **JOINT CASE MANAGEMENT CONFERENCE STATEMENT**
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1 **1. Update of Case Status Since Last CMC**

2 The Parties jointly submit this Case Management Conference Statement to update the
3 Court on events since the last conference. The coordinated cases have been stayed pending
4 resolution of a petition filed by a subset of the defendants to further coordinate the matter of
5 *Kelley O’Sullivan, et al. v. Ghost Gunner, Inc., et al.*, Case No. 34-202100302934-CU-PO-GDS,
6 pending in the Superior Court of Sacramento County (“the *O’Sullivan* case”), with the present
7 cases. The *O’Sullivan* matter is also currently stayed pending resolution of the petition for
8 coordination. The coordinated case Plaintiffs oppose the petition as do the *O’Sullivan* case
9 Plaintiffs. A hearing on that petition is scheduled for November 12, 2021.

10 **2. Proposed Process for Settling the Pleadings**

11 All named defendants have been served but none of the defendants have yet answered or
12 demurred to the Complaints. The Parties hereby propose alternative schedules for consolidating
13 and coordinating an answer and demurrer schedule.

14 **a. Plaintiffs’ Proposal**

15 The Plaintiffs propose that any Defendant who intends to file an answer shall do so
16 individually on or before 30 days after the Court issues its decision on Defendants’ Petition for
17 Inclusion of Add-On Case (the “Add-On Petition”). However, to the extent any Defendant
18 intends to file a demurrer, it shall do so jointly in a single, coordinated pleading with each
19 Defendant who wishes to demurrer to the Complaints. Plaintiffs shall respond jointly in a single,
20 coordinated pleading, and Defendants shall again jointly file a single, coordinated reply in
21 accordance with the following page limits and schedule:

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Pleading	Page Limits	Deadline
Defendants’ Joint Demurrer	40 pages	30 days after the Court’s decision on the Add-On Petition
Plaintiffs’ Joint Opposition	40 pages	30 days Defendants’ Demurrer

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Defendants' Joint Reply	15 pages	21 days after Plaintiffs' Opposition
Plaintiffs' Joint Sur-reply	15 pages	14 days after Defendants' Reply
Hearing		Within 21 days of Plaintiffs' Joint Sur-reply being filed

b. Defendants' Response to Plaintiffs' Proposal

Defendants intend to file a joint demurrer but reserve their rights to file separate demurrers as to facts, issues, or arguments unique to them. Because coordinating each Defendant's respective input on a demurrer will take time that is not normally required, Defendants request an additional 10 days to file their demurrers (40 days in total) and an additional 7 days for their reply briefs (a total of 28 days) to allow time for Defendants to converge their respective briefs into a single filing. Finally, Defendants note that Plaintiffs are not entitled to a sur reply and Defendants reserve their right to object to any formal request Plaintiffs might make for a sur-reply brief.

3. Discovery Schedule and Limits

a. Plaintiffs' Proposal

Plaintiffs propose that discovery commence immediately upon the issuance of the Court's decision on the Add-On Petition in accordance with the following limits:

- Special interrogatories: 30 coordinated interrogatories each for Plaintiffs/Defendants and 5 individual interrogatories per individual Plaintiff/Defendant
- Form interrogatories: A single coordinated set shall be served by the Defendants on each Plaintiff and a single coordinated set shall be served by the Plaintiffs on each Defendant.
- Requests for production/inspection: 50 coordinated RFPs each for Plaintiffs/Defendants and 5 individual RFPs per individual Plaintiff/Defendant

- 1 • Fact depositions: 15 coordinated depositions each for Plaintiffs/Defendants and 1
2 deposition per individual Plaintiff/Defendant

3 Any party shall have the right to petition the Court for additional discovery, which shall
4 be granted upon a showing of good cause.

5 All parties will have the right to attend all depositions, but a single attorney will be
6 designated to ask questions on behalf of each party side at the deposition.

7 Plaintiffs suggest that the Court delay setting an expert discovery schedule until the parties
8 have taken some fact discovery and gain a better sense of expert issues and needs.

9 Plaintiffs propose the following fact discovery schedule:

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Event	Proposed Deadline
Fact Discovery	
Deadline for Serving Written and Document Discovery	8/31/2022
Deadline to File Discovery Motions on Written and Document Discovery	9/16/2022
Close of Fact Discovery	12/2/2022
Deadline to File Discovery Motions on Fact Depositions	12/16/2022

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16 **b. Defendants' Response to Plaintiffs' Proposal**

17 To the extent they do not entirely dispose of these cases, the outcomes of the demurrers
18 will significantly impact the scope of discovery. Accordingly, Defendants continue to believe that
19 discovery should remain stayed pending resolution of demurrers. Additionally, Defendants
20 believe that, to the extent this matter reaches the discovery phase, bifurcation of discovery will be
21 warranted. Specifically, (1) the first phase of discovery should be limited to determining whether
22 each Defendant is properly included in this lawsuit; i.e., whether they have any liability under a
23 market share liability theory; and (2) the second phase would be for the remaining issues
24 concerning each defendant's connection to the respective incident(s) and specific actions relevant
25 to the legal analysis. What's more, *O'Sullivan* may be added on as a coordinated matter to this
26 case and the discovery issues raised by Plaintiffs in that matter will need to be taken into account
27 in setting deadlines, at least for some phases of discovery. For each of these reasons, Defendants
28 believe that it is premature to set discovery deadlines, as it is not yet known whether discovery

1 will even be taking place or what phases of discovery there might be.

2 To the extent the Court wishes to set discovery deadlines now, Defendants do not object
3 to any of Plaintiffs' proposed discovery deadlines, except for the deadline to file motions on
4 written discovery, which should be October 16, 2022, at the earliest. The date Plaintiffs propose
5 (September 16, 2022) would not allow sufficient time for receiving responses, let alone meeting
6 and conferring for discovery served near Plaintiffs' proposed August 31, 2022 cut-off.

7 As with demurrers, Defendants are willing to work together in good faith to streamline
8 and coordinate discovery requests to the extent possible but Defendants cannot commit to being
9 confined to what Plaintiffs request because some Defendants may have different needs in
10 discovery and should not be prejudiced by being limited to less than what the law entitles them to
11 by other Defendants. For the same reasons, Defendants cannot agree to the limitations on
12 depositions that Plaintiffs request; particularly that only one counsel be allowed to ask questions
13 of a particular witness, as that counsel's client may not need to ask questions that another
14 defendant wishes to ask. Again, Defendants believe that each of them should be entitled to
15 conduct discovery to the full extent permitted by statute, with the understanding that Defendants
16 will seek to streamline and avoid duplicative discovery in good faith.

17 Defendants agree with Plaintiffs that it is premature for the Court to set expert discovery
18 deadlines. Defendants also agree with Plaintiffs' request that any party shall have the right to
19 petition the Court for additional discovery, which shall be granted upon a showing of good cause.
20 Defendants further recommend a streamlined process for raising and resolving disputes over
21 whether discovery or depositions requests from any party are unduly burdensome or otherwise
22 improper.

23 **4. Conclusion**

24 The Parties request that the Court set a further scheduling conference for February 2022 to
25 assess the Parties' progress and to set pretrial and trial deadlines.

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Respectfully submitted.

Dated: November 5, 2021

AMY K. VAN ZANT
SHAYAN SAID
ANNA Z. SABER
Orrick, Herrington & Sutcliffe LLP

By: /s/ Amy K. Van Zant
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By: /s/ Sean A. Brady
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PROOF OF SERVICE

Dept.: CX 104
Judge: Hon. William D. Claster

PROOF OF SERVICE

I am employed in the County of San Mateo, State of California. I am over the age of eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Rd., Menlo Park, CA 94025.

On November 5, 2021, I served the following document(s) entitled:

- **JOINT CASE MANAGEMENT CONFERENCE STATEMENT**

on all interested parties to this action in the manner described as follows:

X	(VIA EMAIL) I caused to be transmitted via electronic mail the document(s) listed above to the electronic address(es) set forth below.
	(VIA U.S. MAIL) By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Menlo Park, California addressed as set forth below.

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I declare under penalty of perjury under the laws of the State of California that the above
is true and correct.

Executed on November 5, 2021 at Moss Beach, California.

/s/ Karin Barnick