

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

LISA SUMMERS, Personal Representative)
Of The ESTATE OF KESHALL ANDERSON,)
KISHA BAILEY, Individually)
And As The LEGAL GUARDIAN)
Of JORDAN DOMINIQUE ROBINSON JR.,)
A Minor, MICHAEL BAILEY, Individually)

) C.A. No.:

Plaintiffs,

v.

) **TRIAL BY JURY DEMANDED**

)
CABELA’S, LLC., A Delaware Limited)
Liability Company, f/d/b/a CABELA’s INC.,)
CABELA’S DE, LLC, A Delaware Limited)
Liability Company, CABELA’S)
WHOLESALE, INC., A Nebraska Corporation)
registered in Delaware,)
CABELA’S WHOLESALE, LLC,)
A Nebraska Limited Liability Company)
registered in Delaware and)
BASS PRO GROUP, LLC, A Delaware)
Limited Liability Company.)

Defendants.)

COMPLAINT

The Estate of Keshall (“KeKe”) Anderson, her son Jordan Dominique Robinson Jr. and her parents Kisha Bailey and Michael Bailey (“Plaintiffs”) bring this action against Cabela’s, LLC, f/d/b/a Cabela’s INC, Cabela’s DE, LLC, Cabela’s Wholesale, INC, Cabela’s Wholesale LLC and Bass Pro Group, LLC, (collectively referred to as “Cabela’s”) for damages resulting from Cabela’s unlawful and negligent sale of a firearm which caused the death of KeKe.

PARTIES

1. Lisa Summers, Personal Representative of the Estate of Keshall Anderson, Jordan Dominique Robinson II, son; Kisha Bailey, mother, Michael Bailey, father are all residents of Delaware.
2. Defendant Cabela's, LLC f/k/a Cabela's Inc. is a Delaware limited liability company. The entity's registered agent information is the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington DE 19801 located in New Castle County Delaware. Cabela's LLC f/k/a Cabela's Inc., is a wholly owned subsidiary of Bass Pro Group, LLC. Cabela's is one of the world's largest direct marketers of hunting, fishing, camping and related outdoor merchandise. Among other things, Cabela's sells firearms.
3. Cabela's DE LLC, is a Delaware limited liability company and upon information and belief a wholly owned subsidiary of Cabela's, LLC f/k/a Cabela's, Inc. The entity's registered agent is Corporation Service Company, 251 Little Falls Drive, Wilmington DE 19808 located in New Castle County Delaware.
4. Cabela's Wholesale, Inc., is a Nebraska corporation registered in Delaware and upon information and belief a wholly owned subsidiary of Cabela's, LLC f/k/a Cabela's, Inc. The entity's registered agent is Corporation Service

Company, 251 Little Falls Drive, Wilmington DE 19808, located in New Castle County Delaware.

5. Cabela's Wholesale, LLC, is a Nebraska limited liability company registered in Delaware and upon information and belief a wholly owned subsidiary of Cabela's, LLC f/k/a Cabela's, Inc. The entity's registered agent is Corporation Service Company, 251 Little Falls Drive, Wilmington DE 19808 located in New Castle County Delaware.
6. Bass Pro Group, LLC is a Delaware limited liability company. The entity's registered agent information is the Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington DE 19801 located in New Castle County Delaware. Bass Pro Group, LLC is a leading national retailer of outdoor gear and apparel. Upon information and belief Bass Pro Group, LLC completed its acquisition of Cabela's INC. and its subsidiaries on or about September 25, 2017.
7. Defendants Cabela's, LLC, f/d/b/a Cabela's INC, Cabela's DE, LLC, Cabela's Wholesale, INC, Cabela's Wholesale LLC and Bass Pro Group, LLC are referred to collectively below as "Cabela's".
8. Cabela's owns and operates a retail store at the Christiana Mall in Newark, Delaware ("Christiana Mall Cabela's"), through which it conducts

substantial business in Delaware. The address of the Christiana Mall Cabela's is 1100 Christiana Mall #1410, Newark, Delaware 19702, which is located in New Castle County Delaware.

9. In addition to its retail presence, Cabela's conducts substantial business in Delaware over the Internet, which it uses to advertise and sell products directly to Delaware residents. Cabela's also conducts substantial business in Delaware through its print catalogs, which it mails directly to Delaware residents and uses to advertise and sell products directly to Delaware residents. Through its retail store, Internet sales, and print catalogs, Cabela's sells various products to Delaware residents, including firearms.
10. Cabela's is vicariously liable for the actions and inactions of its agents and employees while in the scope of their agency or employment, including the actions and inactions of its agents and employees when selling firearms.

JURISDICTION AND VENUE

11. Pursuant to the Delaware Constitution, Art. IV, § 7 and 10 Del.C. § 541, this Court has jurisdiction over the subject matter of this cause of action. This Court has personal jurisdiction over defendant Cabela's under 10 Del.C. § 3104(c)(1) because defendant Cabela's transacts business in Delaware through its Christiana Mall retail store, catalogs and online sales.

12. Venue is proper in New Castle County, Delaware because this cause of action arose here and defendant Cabela's transacts business here.

**BACKGROUND ON THE LEGAL RESPONSIBILITIES OF CABELA'S
TO PREVENT THE SUPPLY OF GUNS TO STRAW PURCHASERS AND
OTHER DANGEROUS PEOPLE**

13. Federally licensed firearms dealers such as Cabela's are "the 'principal agent[s] of federal enforcement' in 'restricting [criminals'] access to firearms'" and have "the responsibility to '[e]nsure that, in the course of sales or other dispositions ..., weapons [are not] obtained by individuals whose possession of them would be contrary to the public interest.'"

Abramski v. United States, 134 S. Ct. 2259, 2273 (2014) (quoting *Huddleston v. United States*, 94 S. Ct. 1262, 1268 (1974)).

14. As dealers such as Cabela's know, straw purchases are one of the primary ways in which guns are diverted from dealers to felons and other dangerous individuals for criminal use. Straw purchasers are individuals who fraudulently and unlawfully represent themselves as buying guns for their own possession and use, but are actually acting on behalf of others. In many cases, straw purchasers buy guns for individuals who are prohibited from purchasing weapons themselves (e.g. because of a criminal record, history of domestic violence, mental illness, or unlawful drug use) or who otherwise wish to conceal the fact that they are obtaining weapons. As federal and

Delaware law require that the background check and required records relate to the actual purchaser of the firearm, a straw purchase is a violation of Delaware and federal law even if the recipient of the gun would be a legitimate purchaser. *Abramski v. United States*, 134 S. Ct. 2259, (2014).

15. Federal law – including, but not limited to, 18 U.S.C. §§ 922(a)(6), 922(b)(2), 924(a)(1), 924(a)(2), 924(a)(3), 27 C.F.R. § 478.128 – bars the transfer of firearms or ammunition to straw purchasers. Federal law also requires gun dealers such as Cabela’s to keep and maintain accurate records of firearm transactions. *See* 18 U.S.C. §§ 922(b)(5), 922(m), 923(g)(1)(A), 27 C.F.R. § 478.125.

16. Among other things, it is unlawful for any person in connection with the acquisition of a firearm from a licensed dealer to knowingly make any false oral or written statements or to furnish or exhibit any false, fictitious or misrepresented identification, intended or likely to deceive a firearms dealer with respect to any fact material to the lawfulness of the sale or other disposition of a firearm. *See* 18 U.S.C. §§ 922(a)(6), 922(b)(2), 922(m), 924(a)(1), 924(a)(2), 924(a)(3), 27 C.F.R. §§ 478.124, 478.128.

17. Firearms dealers have an obligation to determine the lawfulness of a transfer, and to certify the accuracy of the information provided to them. *See*

27 C.F.R. § 478.124(c)(5). Firearms dealers are also prohibited from aiding and abetting the making of false statements or providing false documents.

18. Delaware law, including 11 Del. C. §§ 1448A(g), 144A(h), make it a crime to willfully make false written or oral statements in connection with the purchase, transfer or attempted purchase or transfer of a firearm, aid and abet the making of false statements and/or to willfully sell and deliver a firearm in violation of 11 Del. C. § 1448A.

19. The United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) requires that, for each over-the-counter gun sale, purchasers and dealers complete its Firearms Transaction Record (“Form 4473”). The purpose of Form 4473 is explained on the form itself:

The information and certification on this form are designed so that a person licensed under 18 U.S.C. § 923 [a gun dealer] may determine if he or she may lawfully sell or deliver a firearm to the person identified [on the form] in Section A, and to alert the buyer of certain restrictions on the receipt and possession of firearms. ... The seller of a firearm must determine the lawfulness of the transaction and maintain proper records of the transaction. Consequently, the seller must be familiar with the provisions of 18 U.S.C §§ 921-931 and the regulations in 27 CFR Part 478. ...

20. Section A, Question 11.a. of Form 4473 asks, “Are you the actual transferee/buyer of the firearm(s) listed on this form?” It also contains in bold the following warning:

Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you.

21. In order to sell or transfer a firearm over-the-counter, a dealer must certify that its answers on the Form 4473 are correct, that it has verified the identification of the purchaser and that it has no reason to believe that it is unlawful to sell or transfer the firearm to the person identified on the Form 4473. A dealer violates the law if the dealer transfers a firearm based on information in the Form 4473 that the dealer knows or has reason to believe is false.
22. A dealer violates Federal and Delaware law when it certifies answers on and completes a 4473 and/or submits a NICS background check having reason to know the purported buyer is a straw purchaser.
23. Federal firearms dealers, such as Cabela's, have a legal responsibility to not sell or transfer a firearm to a person who they have reason to believe may be a straw purchaser.
24. Identifying and not supplying straw purchasers are some of the most important responsibilities of firearms dealers.
25. Because federal firearms licensees play a critical role in identifying straw purchasers, the ATF encourages dealers to call law enforcement or the nearest ATF office to report suspicious or unlawful transactions.

26. Selling guns to straw purchasers is not an inevitable or unavoidable risk of being a firearms dealer. The vast majority of firearms dealers take appropriate precautions to ensure that they do not sell guns to straw purchasers or other persons with criminal intent.

27. But when gun dealers irresponsibly supply dangerous individuals with guns via straw purchasers or to other persons with criminal intent, both the dealers and the straw purchasers create a reasonably foreseeable risk of harm.

28. The firearms industry trade association, the National Shooting Sports Foundation (“NSSF”), also has publicly recognized and communicated to firearms dealers and the rest of the firearms industry that it is not reasonable or adequate for firearms dealers to simply rely on the veracity of prospective purchasers’ written answers to questions on federally-required Form 4473s, as a person willing to act as a straw purchaser is by definition willing to misrepresent his or her intention on the Form 4473 and falsely represent that he or she is the actual buyer of the gun being sold.

29. The NSSF has issued and communicated to the firearms industry a recommended sales protocol under which firearms dealers should screen suspicious purchasers with a set of questions, beyond those on the Form 4473 itself, and not sell a firearm to a person unless the dealer has no doubts about the legitimacy of the sale.

30. Through a joint program entitled "Don't Lie for the Other Guy," the ATF and the NSSF make clear that firearms dealers have an obligation to not simply rely on whether a prospective purchaser states on the Form 4473 that she is not buying the firearm for someone else, but rather, to confirm the legality of the gun sales they make and not complete a sale when there are grounds to be uncertain as to whether the purchaser is buying the gun for someone else. The joint ATF/NSSF program sets forth recommended practices for ensuring guns sold by gun dealers are not sold to straw purchasers.

31. Responsible firearms dealers use best practices including asking prospective purchasers questions regarding their experience with firearms, their intended use of the firearm[s], and whether they are buying the firearm[s] for themselves. This is done both to provide customers with the product that they want and is best for them, and to screen for potential straw purchasers.

32. The ATF and the NSSF have made clear that gun dealers violate their duties if they fail to actively inquire about or ignore potential indicators of a straw purchase or otherwise unlawful sale.

33. Firearms dealers are obligated to pay attention to all circumstances of a transfer to determine its legality or dangerousness.

34. Unusual behavior, including but not limited to regular communication on a cell phone, and providing information on the 4473 that does not match identification provided for the background check by the transferee during a transaction, are all potential indicators that the transfer is a straw purchase or otherwise unlawful sale.
35. Firearms dealers who notice behavior indicative of a straw sale must stop the sale and notify law enforcement.
36. Firearms dealers such as Cabela's are well aware that if they supply a firearm to someone who may be a straw purchaser or is dangerous for other reasons, the gun will foreseeably enter the criminal firearms market where it will be obtained by dangerous and often prohibited persons, and will be used to cause harm to persons such as KeKe Anderson, and that the gun will foreseeably be used in crimes, including murders of persons such as KeKe Anderson.
37. Most firearms dealers engage in responsible sales practices, and do not supply any firearms used in crime. ATF has found that almost 90% of dealers sell ZERO firearms recovered in crime in a given year.
38. Almost all crime guns are supplied by a small fraction of firearms dealers, many of whom violate the law and/or engage in irresponsible business

practices. ATF has found that about 5% of dealers sell about 90% of crime guns in a given year.

39. Dealers such as Cabela's are informed by law enforcement every time a firearm they sell is recovered and traced in crime by law enforcement.

FACTS

40. Due to a lengthy criminal record, convicted felon John Kuligowski ("Kuligowski") is barred from purchasing or possessing a firearm.

41. Aware that he would not pass the requisite criminal background check under Federal and Delaware law, Kuligowski solicited his girlfriend, Brilena Hardwick ("Hardwick"), to buy an Iberia Firearms JCP, .40 caliber Smith & Wesson pistol ("the .40") and a box of bullets for him from the Christiana Mall Cabela's location.

42. Hardwick obliged, committing a blatant straw purchase in knowing violation of state and federal law.

43. Hardwick and Kuligowski could not have succeeded in obtaining a firearm but for the negligent and illegal conduct of the Christiana Mall Cabela's.

44. On or about July 28, 2016, Kuligowski drove Hardwick to and from the Christiana Mall Cabela's, waiting in the parking lot during the transaction.

45. While inside the store, on information and belief, Hardwick displayed erratic behavior, running up and down the aisles, and remained in regular cell

phone communication with Kuligowski through both text messages and phone calls.

46. When making the purchase, Hardwick listed a false address on the Form 4473.

47. When making the purchase, Hardwick made another false statement when she certified that she was the actual buyer/transferee on Form 4473.

48. Cabela's knew or should have known that a straw purchase was underway.

49. Cabela's knew or should have known that supplying a firearm to Brilena Hardwick created an unreasonable risk of danger to others.

50. Cabela's knew or should have known that it could not legally certify that Brilena Hardwick was the actual purchaser of the firearm.

51. Cabela's did not stop the purchase.

52. Cabela's did not notify law enforcement of the straw purchase.

53. Upon information and belief, Cabela's did not comply with its legal obligations to determine whether Hardwick was a straw purchaser, or was otherwise unqualified to possess or buy a firearm; to refuse to sell a firearm if it had doubts about the legality of the sale; to only certify the firearms transaction form if it had no doubts that Hardwick was the actual purchaser; and not notify law enforcement that a straw sale was attempted.

54. Upon information and belief, had Cabela's adhered to its legal obligations, it would not have completed the sale to Hardwick, it would not have certified that she was the actual purchaser, and it would have notified law enforcement about the attempted straw sale.
55. Upon information and belief, Cabela's falsely certified that Brilena Hardwick was the actual purchaser of the firearm in firearms transaction forms.
56. Upon information and belief, Cabela's then maintained those false records in its store, concealing the truth and misleading law enforcement about the legality of the sale and the name of the purchaser.
57. Upon information and belief, Cabela's submitted Brilena Hardwick's name to law enforcement to have them run a NICS background check on Brilena Hardwick, the straw purchaser/buyer.
58. Upon information and belief, Cabela's certified on Form 4473 that Brilena Hardwick was the actual buyer/transferee.
59. Kuligowski was waiting for Hardwick in the Cabela's parking lot and they left together in his red Oldsmobile Alero.
60. Upon information and belief, Kuligowski, the actual purchaser/buyer was a convicted felon, prohibited purchaser and would not have passed a background check.

61. After Hardwick unlawfully transferred the .40 to Kuligowski, he supplied the firearm to the criminal market, where it was obtained by Abdullah Brown (“Brown”) and Deonta Carney (“Carney”), both sixteen-year-old minors unable to legally possess or purchase firearms.
62. Less than two months after the straw purchase at Cabela’s, Brown and Carney used the .40 in a drive-by shooting in Wilmington, Delaware on September 18, 2016.
63. Keshall Anderson (“KeKe”), was 19 years old walking on a public street in Wilmington with a friend when she was caught in the crossfire and shot multiple times.
64. KeKe suffered fatal injuries.
65. KeKe died later that day.
66. KeKe left behind a 6-month old son.
67. KeKe Anderson was the eighteenth person to die by gun violence in Wilmington in 2016. Wilmington is a high-crime city, where straw purchasing and gun trafficking facilitates and exacerbates an epidemic of youth gang violence. Minors in Wilmington are more likely to be shot than minors in any other U.S. city.
68. Cabela’s has been linked to other firearms trafficking and gun crime incidents in the past, both nationally and in Delaware.

69. Cabela's knew or should have known that straw sales, and inadequate business practices that enable straw purchases, would foreseeably lead to trafficking and criminal activity.
70. Guns sold to straw purchasers by the Christiana Mall Cabela's were used in at least three other shootings in Wilmington since May 2016.
71. The Cabela's store in Delaware has a history of catering to traffickers and making sales to straw purchasers.
72. Cabela's nationwide has a history of catering to traffickers and straw purchases.
73. Cabela's was the fourth largest source dealer of crime guns to the City of Chicago from 2013-2016. *Gun Trace Report 2017, City of Chicago, Office of the Mayor and Chicago Police Department.*
<https://www.cityofchicago.org/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/October/GTR2017.pdf>
74. A gun purchased at Cabela's was used by the Tsarnaev brothers in the highly publicized 2013 Boston Marathon bombing to carjack, kill a police officer and engage in a shootout with the police.
[https://abcnews.go.com/US/boston-marathon-bombing-tale-gun/story?id=29898790.](https://abcnews.go.com/US/boston-marathon-bombing-tale-gun/story?id=29898790)

75. Cabela's knew or should have known of all of the aforementioned information and more regarding the foreseeable risks created by its negligent or illegal sales, and its supply of criminals and the criminal gun market.
76. Cabela's failure to exercise reasonable care in its transfer of the .40 to Hardwick as a straw purchaser for Kuligowski, the actual buyer, resulted in the arming of people who should not have possessed a firearm, and who were prohibited from possessing a firearm, because they posed an unreasonable risk of harm to others, and thereby caused or contributed to the September 18, 2016 shooting of, injuries to and death of KeKe Anderson.
77. By transferring the .40 under the aforementioned circumstances, Cabela's knowingly violated state and federal laws, including, but not limited to, 11 Del.C. §§ 1448A(a), 1448A(b), 1448A(g) 1448A(h), 18 U.S.C. §§ 922(a)(6), 922(m), 924(a)(1), 924(a)(2), and 924(a)(3).
78. Cabela's knowing violation of the aforementioned laws proximately caused the death of KeKe Anderson.
79. By transferring the .40 under the aforementioned circumstances, Cabela's negligently entrusted the firearm to Hardwick.

COUNT I
NEGLIGENCE *PER SE*
(against DEFENDANT CABELA'S)

80. Plaintiffs repeat and incorporate the preceding paragraphs as if fully rewritten herein.

81. Cabela's has a duty to exercise reasonable prudent care in selling and transferring guns and in refraining from engaging in any activity that would create reasonably foreseeable risks of injury to or death of others. This duty includes following federal and state gun laws concerning the sale of firearms and ammunition to straw purchasers.

82. Cabela's negligently and knowingly violated federal and state laws governing the sale of firearms and/or aided and abetted these violations, including, but not limited to, 11 Del.C. §§ 1448A(a), 1448A(b), 1448A(g), 1448A(h), 18 U.S.C. §§ 922(a)(6), 922(b)(2), 922(b)(5), 922(m), 924(a)(1), 924(a)(2), 924(a)(3), 923(g)(1)(A), 2, 4, and 27 C.F.R. §§ 478.125, 478.128.

83. These laws were enacted to protect public safety by setting forth a standard of conduct designed to prevent firearm access from getting into the hands of dangerous persons and/or prohibited purchasers for criminal or otherwise dangerous use.

84.The purpose of these laws is to protect innocent members of the public,
including KeKe Anderson, from the precise type of violent crime that caused
her death.

85.As a direct and proximate result of Cabela's violation of these laws,
Plaintiffs are entitled to damages.

COUNT II
NEGLIGENCE
(against DEFENDANT CABELA'S)

86.Plaintiffs repeat and incorporate the preceding paragraphs as if fully
rewritten herein.

87.At all relevant times, Cabela's was subject to the general duty imposed on
all persons to use reasonable care and not to expose others to reasonably
foreseeable risks of injury.

88.Cabela's had a duty to exercise reasonable care in selling firearms and to
refrain from engaging in any activity creating reasonably foreseeable risks of
injury to others.

89.Breach of this duty constitutes negligence.

90.Cabela's knew or had reasonable cause to believe that supplying a firearm to
Hardwick created an unreasonable risk that others would be injured.

91.Among other facts and circumstances, Cabela's knew or had reason to know
that it posed an unreasonable risk of harm to others by transferring a firearm

to Brilena Hardwick; that Hardwick was likely a dangerous purchaser, and a straw purchaser, based on common indicators including, but not limited to, the fact that Hardwick displayed erratic behavior while in the store; that Hardwick used her cell phone to regularly communicate with Kuligowski through calls and text messages before and during the purchase; and that Hardwick listed a false address on the Form 4473 in order to complete the transaction.

92.Cabela's breached its duty to exercise reasonable care in selling firearms by selling the .40 to Hardwick.

93.A reasonable and law-abiding gun seller would have known that there was a substantial and unacceptable risk that Hardwick was a dangerous person and/or a straw purchaser, and that the gun would be used in a manner involving unreasonable risk of physical injury to others.

94.Cabela's foreseeably knew or should have known that innocent persons such as KeKe Anderson would be injured as a result of the straw sale to Hardwick.

95.As a direct and proximate result of Cabela's conduct described above, Plaintiffs are entitled to damages.

COUNT III
NEGLIGENT ENTRUSTMENT
(against DEFENDANT CABELA'S)

96. Plaintiffs repeat and incorporate the preceding paragraphs as if fully rewritten herein.
97. At all relevant times preceding the sale, Cabela's had control of the .40 that it sold to Hardwick, and which was used to shoot and kill KeKe Anderson.
98. Hardwick was supplied and became entitled to possess the .40 only by the consent of Cabela's.
99. Cabela's knew or should have known that, by withholding consent to Hardwick, it could have prevented the gun from being obtained or accessed by criminals and other dangerous persons, including Kuligowski, Brown and Carney—all prohibited by law from purchasing or possessing firearms.
100. It was reasonably foreseeable that the straw sale of the .40 to Hardwick would result in its unlawful transfer to a prohibited purchaser, and that the .40 would become a crime gun.
101. It was reasonably foreseeable that the criminal use of the .40 by a person unauthorized to possess it would create an unreasonable risk of physical injury to others, including KeKe Anderson.
102. Cabela's knew or reasonably should have known that Hardwick was likely to use the firearm in a manner involving unreasonable risk of physical injury to herself or others.

103. Hardwick did use the firearm in a manner involving unreasonable risk of physical injury to herself or others by transferring the gun to a felon and into the criminal market.

104. As a direct and proximate result of Cabela's conduct described above, Plaintiffs are entitled to damages.

COUNT IV
NEGLIGENT TRAINING AND SUPERVISION
(against DEFENDANT CABELA'S)

105. Plaintiffs repeat and incorporate the preceding paragraphs as if fully rewritten herein.

106. Cabela's recklessness, gross negligence, and/or negligence in training and/or supervising of employees was a direct and proximate cause of the shooting and death of KeKe Anderson.

107. Cabela's placed its employees in a position to cause foreseeable harm to the public by negligently and wantonly failing to implement adequate protocols for training and supervising its employees to prevent straw sales or otherwise unlawful or dangerous transfers to individuals such as Hardwick and by failing to train its employees accordingly.

108. Had Cabela's adequately trained and supervised its employees to ensure compliance with industry guidelines for screening potential purchasers,

Hardwick, and therefore Kuligowski, Brown and Carney, would not have acquired the .40 used to kill KeKe Anderson.

109. As a direct and proximate result of Cabela's conduct described above, Plaintiffs are entitled to damages.

COUNT VI
PUBLIC NUISANCE
(against DEFENDANT CABELA'S)

110. Plaintiffs repeat and incorporate the preceding paragraphs as if fully rewritten herein.

111. By negligently selling guns to straw purchasers and other dangerous people who use them unlawfully and dangerously, including transferring them to the criminal market where they are obtained by prohibited purchasers for criminal purposes, Cabela's has negligently and/or knowingly participated in creating and maintaining an unreasonable interference with the rights held in common by the general public, constituting a public nuisance. The acts and omissions of Cabela's as alleged herein caused, created and maintained a substantial and unreasonable interference with the public's health, safety, convenience, comfort, peace and use of public property and/or private property.

112. The acts and omissions of Cabela's as alleged herein substantially and unreasonably interfere with the public's use of public facilities, including

the use of public highways and walkways. Public highways and walkways are substantially and unreasonably unsafe because of the presence of crime guns unlawfully sold and negligently supplied by Cabela's.

113. Cabela's acts and omissions as alleged herein substantially and unreasonably (a) increase the number of crime guns in and on public facilities, including public highways and walkways, and (b) increase the degree to which unlawful possessors in and on public facilities, including highways and walkways, are unlawfully armed with weapons.
114. Numerous members of the public are killed, injured, or involved in criminal acts each year as a result of crime guns negligently sold and entrusted by Cabela's.
115. Cabela's acts and omissions as alleged herein cause a substantial and unreasonable increase in the number of members of the general public who are killed and injured by crime guns.
116. Cabela's acts and omissions as alleged herein cause substantial and unreasonable interferences with the public's health, safety, convenience, comfort, and peace in numerous other ways, including: (a) increasing the number of unlawful possessors of weapons who commit violent crimes against innocent members of the general public; (b) increasing the

number and severity of property crimes committed by those in possession of crime guns against innocent members of the general public; (c) increasing the number and severity of incidents in which those in possession of crime guns disturb the peace by being disorderly; and (d) increasing the amount of society's resources that are diverted toward dealing with the problems associated with the possession of crime guns negligently sold by the defendant gun dealers.

117. Cabela's knows or has reason to know that the acts and omissions alleged herein caused substantial and unreasonable interferences with the public's health, safety, convenience, comfort, peace, and use of public facilities.

118. Cabela's acts and omissions as alleged herein were undertaken with negligent and/or intentional disregard of the rights of the general public.

119. Cabela's knew that they could have taken precautions that would have eliminated or minimized the injuries to the general public but chose not to take those precautions in order to maximize their revenues and profits.

120. Cabela's interference with the public's health, safety, convenience, comfort, peace, and use of public facilities is unreasonable, unlawful, substantial, significant, continuing, and long-lasting. This interference is not insubstantial or fleeting, and involves deaths and serious injuries

suffered by many people and a severe disruption of public peace, order, and safety.

121. Cabela's negligence and unlawful conduct, including negligent entrustment of firearms, is a cause of the public nuisance.

122. As a direct and proximate cause of Cabela's conduct described above, KeKe Anderson suffered special injuries distinguishable from those suffered by the general public.

123. As a direct and proximate result of Cabela's conduct described above, Plaintiffs are entitled to damages.

COUNT VI
WRONGFUL DEATH
(against DEFENDANTS CABELA'S)

124. Plaintiffs repeat and incorporate the preceding paragraphs as if fully rewritten herein.

125. The Estate of Keshall Anderson asserts a claim against defendant Cabela's for her wrongful death under 10 Del.C. § 3724.

126. As a direct and proximate result of both defendants' conduct described above, KeKe Anderson's next of kin have suffered mental anguish and pecuniary and non-pecuniary losses, including but not limited to loss of parental services including the reasonable cost of providing care to a minor child, reasonable funeral expenses and severe mental anguish.

COUNT VII
SURVIVAL ACTION
(against DEFENDANTS CABELA'S)

127. Plaintiffs repeat and incorporate the preceding paragraphs as if fully rewritten herein.

128. The wrongful conduct of defendants Cabela's described above were substantial factors in bringing about serious injuries to KeKe Anderson which led to her death on September 18, 2016.

129. The Estate of Keshall Anderson asserts a claim under 10 Del.C. §§ 3701 and 3704 to recover any and all damages to which decedent KeKe Anderson was or would have been entitled.

DAMAGES

130. Plaintiffs repeat the preceding paragraphs as if fully rewritten herein.

131. As a direct and proximate cause of Cabela's aforementioned conduct, KeKe Anderson suffered physical, mental and emotional pain and suffering, including during the last moments of her life. Her son, who was an infant at the time of her death, suffers from extreme mental and emotion pain and loss of his parental services caused by the wrongful death of his mother. Her parents suffer from extreme mental and emotional pain caused by the wrongful death of their daughter.

WHEREFORE, Plaintiffs demand compensatory and punitive damages against all Defendants, jointly and severally, for damages generally, including physical and emotional pain and suffering and loss of future earnings for the Estate of Keshall Anderson, mental anguish for her parents and son and loss of parental services for her son, pre-judgment and post-judgment interest and court costs under all Counts, and punitive damages for any conduct found to be reckless, willful and/or intentional; as well as injunctive relief that is appropriate.

Dated: July 25, 2018

HUDSON & CASTLE LAW, LLC

/s/ Ben T. Castle

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