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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

VIVIAN ENGLUND, a Washington resident, and Personal Representative for the Estate of Kirsten Englund,	) ) Case No. ) ) <b>COMPLAINT</b> ) (Wrongful Death, Negligence, Negligence ) <i>Per Se</i> , Negligent Entrustment, Gross ) Negligence, Public Nuisance) ) ) (Amount of Prayer: \$9,000,000) ) ) CLAIM NOT SUBJECT TO ) MANDATORY ARBITRATION ) (Pursuant to UTCR 13.060) ) ) Jury Trial Requested ) ) Filing Fee Under Oregon Laws 2012, ch. 48, ) § 2 and ORS § 21.160(1)(d): \$755 )
Plaintiff,	
v.	
WORLD PAWN EXCHANGE, LLC, an Oregon for-profit corporation, J&G II, INC. d/b/a J&G Sales, Ltd., an Arizona for-profit corporation, RICHARD JAMES SINATRA, an Oregon resident, and DIANE BOYCE, an Oregon resident,	
Defendants.	

Plaintiff alleges:

1.

On three separate occasions over less than three months Defendant World Pawn Exchange, LLC (“WPE”) transferred guns to Diane Boyce, a straw purchaser, in violation of federal and Oregon laws and without exercising reasonable care. At least two of these guns were purchased over the Internet from J&G II, Inc. (“J&G”). Laws against the sale of guns to straw purchasers exist to prevent guns from falling into the hands of people who should

1 not have them. Despite indicators that these sales were illegal straw purchases, defendants  
2 WPE and J&G disregarded those laws. Predictably, the illegally transferred guns reached a  
3 person who should not have had them: a dangerous and delusional, mentally-ill, 30 year-old  
4 man named Jeffrey Boyce, the son of straw purchaser Diane Boyce. On April 28, 2013,  
5 Jeffrey approached an unarmed female stranger who happened to be parked at the side of the  
6 road admiring a scenic view, shot her dead, and then lit her body on fire. The victim was  
7 Kirsten Englund, the Plaintiff's 57 year-old sister. By following applicable laws and industry  
8 standards, WPE and J&G would have prevented Jeffrey Boyce from obtaining the gun he  
9 used to kill Kirsten Englund and the other guns he had with him at the time of Kirsten  
10 Englund's murder. Instead, Kirsten's senseless death was due directly to the negligence of  
11 WPE, J&G, and Diane Boyce.

## 12 **PARTIES & VENUE**

### 13 2.

14 Plaintiff Vivian Englund ("Plaintiff") is the sister of Kirsten Englund and the duly  
15 appointed personal representative of her estate. Vivian Englund resides in Washington.  
16 Andrew Wiegardt and Nicholas Wiegardt are the sons of Kirsten Englund and beneficiaries  
17 of her estate.

### 18 3.

19 Defendant World Pawn Exchange, LLC ("WPE") operates a pawn shop and is a  
20 federally licensed firearm dealer (License No. 9-93-011-02-4E-02017) doing business as  
21 "World Pawn Exchange." At all relevant times WPE has been located at 1980 Sherman  
22 Avenue, North Bend, Oregon 97459. WPE has sustained, continuous business activity in  
23 Multnomah County, Oregon; among other things, Defendant WPE sells and transfers guns  
24

1 into and out of Multnomah County, Oregon. Defendant WPE maintains a registered agent  
2 for service of process in Marion County, Oregon at National Registered Agents, Inc., 388  
3 State Street, Suite 420, Salem, Oregon 97301. WPE maintains a website  
4 (worldpawnexchange.com) on which there are links to two separate webpages devoted to the  
5 sale of firearms: (a) Davidson’s Gun Order (gunstores.net); and (b) Gunbroker  
6 (gunbroker.com).

7 4.

8 Defendant Richard James Sinatra (“Mr. Sinatra”) resides in Salem, Oregon and is the  
9 owner-operator of WPE. For purposes of this Complaint, all references to WPE are also  
10 references to Mr. Sinatra.

11 5.

12 Defendant J&G II, Inc. is a federally-licensed firearms dealer (License No. 9-86-025-  
13 01-8A-36972) doing business as J&G Sales, Ltd. and is an Arizona for-profit corporation  
14 located at P.O. Box 10400, 440 Miller Valley Road, Prescott, AZ 86304. Its statutory agent  
15 is Brad J. Desaye, who is located at 720 Elrod Road, Prescott, AZ 86301.

16 6.

17 Defendant Diane Boyce (“Ms. Boyce”) resides in Coos Bay, Oregon and is the  
18 mother of Jeffrey Boyce. Ms. Boyce is a mental health professional currently employed by  
19 the Behavioral Health Services division of the Coos County Department of Health &  
20 Wellness.

21 **BACKGROUND REGARDING LAWS AND POLICIES TO PREVENT**  
22 **THE TRANSFER OF GUNS TO STRAW PURCHASERS**

23 7.

24 As federal licensed firearms dealers, WPE and J&G are required by federal law to

1 keep and maintain accurate records of firearm transactions. *See* 18 U.S.C. § 922(m).

2 8.

3 Federal law – including, but not limited to, 18 U.S.C. §§ 922(a)(6), 922(d), 922(m)  
4 and 924(a)(1)(A) – bars the sale of firearms or ammunition to “straw purchasers” who  
5 acquire firearms from a gun dealer on behalf of another person.

6 9.

7 To prevent straw purchases, the United States Department of Justice, Bureau of  
8 Alcohol, Tobacco, Firearms and Explosives (“ATF”) requires that, for each gun sale, gun  
9 dealers complete its Form 4473. The purpose of Form 4473 is explained on the form itself:

10 The information and certification on this form are designed so that a person  
11 licensed under 18 U.S.C. § 923 [a gun dealer] may determine if he or she may  
12 lawfully sell or deliver a firearm to the person identified [on the form] in  
13 Section A, and to alert the buyer of certain restrictions on the receipt and  
14 possession of firearms. ... The seller of a firearm must determine the  
15 lawfulness of the transaction and maintain proper records of the transaction.  
16 Consequently, the seller must be familiar with the provisions of 18 U.S.C. §§  
17 921-931 and the regulations in 27 CFR Part 478. ...

18 10.

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

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

24 11.

25 In order to obtain a firearm, a purchaser must make the following certifications on  
26 Form 4473:

- “I understand that answering ‘yes’ to question 11.a. if I am not the actual buyer is a crime punishable as a felony under Federal law.”

- 1
- 2 • “I also understand that making any false oral or written statement, or exhibiting any  
3 false or misrepresented identification with respect to this transaction, is a crime  
punishable as a felony under Federal law, and may also violate State and/or local  
law.”

4 Form 4473 also specifically instructs in relevant part:

5 For purposes of this form, you are the actual transferee/buyer if you are  
6 purchasing the firearm for yourself or otherwise acquiring the firearm for  
yourself (e.g., *redeeming the firearm from pawn/retrieving it from*  
7 *consignment, firearm raffle winner*). You are also the actual transferee if you  
are legitimately purchasing the firearm as a gift for a third party. ACTUAL  
8 TRANSFEREE/BUYER EXAMPLES: Mr. Smith asks Mr. Jones to purchase  
a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the  
9 firearm. Mr. Jones is NOT THE ACTUAL TRANSFEREE/BUYER of the  
firearm and must answer “NO” to question 11.a. The licensee may not  
transfer the firearm to Mr. Jones....

10

11 12.

12 Federally licensed firearms dealers are “the ‘principal agent[s] of federal  
13 enforcement’ in ‘restricting [criminals’] access to firearms’” and have “the responsibility to  
14 ‘[e]nsure that, in the course of sales or other dispositions ..., weapons [are not] obtained by  
15 individuals whose possession of them would be contrary to the public interest.’” *Abramski v.*  
16 *United States*, 134 S. Ct. 2259, 2273 (2014) (*quoting Huddleston v. United States*, 94 S. Ct.  
17 1262, 1268 (1974)). Because federal firearms licensees play a critical role in identifying  
18 straw purchasers, the ATF encourages dealers to call law enforcement or the nearest ATF  
19 office to report suspicious or illegal transactions.

20

21 13.

22 Straw purchases are also illegal under Oregon law. More particularly, in Oregon, it is  
23 illegal to provide a false name or other false information in connection with the purchase of a  
firearm. ORS § 166.416 (2011). It is also illegal for a gun dealer to transfer a firearm in  
24 intentional violation of Oregon’s requirement that it “obtain the signature of the **purchaser**”

1 on the firearms transaction record. ORS §§ 166.412(2)(b) and 166.418 (2011) (emphasis  
2 added).

3 14.

4 Most firearms dealers are responsible businesspeople who take care to prevent the  
5 sales of guns to criminals and those who supply them, such as straw purchasers. Indeed,  
6 almost 90% of firearms dealers sell zero (0) firearms traced to crime in any given year.  
7 However, a small percentage of firearm dealers are known to divert firearms to criminals,  
8 supplying the vast majority guns used in crimes.

9 15.

10 Straw purchases are one of the primary ways in which guns are diverted from dealers  
11 for criminal uses.

12 16.

13 Straw purchasers are individuals who fraudulently and illegally represent themselves  
14 as buying guns on their own behalf, but really are acting on behalf of others. In many cases,  
15 straw purchasers buy guns for individuals who are prohibited themselves from purchasing  
16 weapons (*e.g.*, because of a criminal history, history of mental illness, or illegal drug use), or  
17 who otherwise wish to conceal the fact that they are obtaining weapons. However, the straw  
18 purchaser who purchases a gun to provide to a legitimate purchaser equally violates federal  
19 and Oregon law.

20 17.

21 Selling guns to straw purchasers is by no means an inevitable or unavoidable risk of  
22 being a firearms dealer. The vast majority of firearms dealers take appropriate precautions to  
23 ensure that they do not sell guns to straw purchasers or other persons with criminal purposes.

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18.

This suit does not challenge the right of law-abiding citizens to purchase firearms as permitted by federal and Oregon law, nor does it challenge responsible, licensed firearm dealers' proper and lawful operation of their business of responsibly selling guns to bona fide purchasers. In fact, Plaintiff recognizes that the vast majority of firearms dealers sell no guns traced to crimes.

19.

But when gun dealers, such as WPE and J&G, irresponsibly supply dangerous individuals with guns via straw purchasers, such as Ms. Boyce, both the dealers and the straw purchaser create a reasonably foreseeable risk of harm, in this case causing the senseless murder of Kirsten Englund.

20.

Whether a firearms dealer will sell to a straw purchaser cannot be predicted by where it is located (*i.e.*, whether it is in a high crime area) or by its sales volume. What is predictive of whether a firearms dealer will sell to a straw purchaser is whether it exercises due care and follows industry standards in how and to whom it sells guns. Firearms dealers' sales practices and procedures and the business decisions they make regarding whether to sell guns to suspicious persons directly affect the probability that their guns will be diverted to criminals or the criminal market.

21.

A publicly-available report released by the United States Department of Justice entitled *Gun Violence Reduction: National Integrated Firearms Violence Reduction Strategy* details how firearms dealers' business practices and procedures work directly to either

1 facilitate criminal handgun acquisition or prevent it. The report advocates the  
2 implementation of “a code of conduct and comprehensive training for dealers, to ensure that  
3 handguns are not stolen or sold to criminals or straw purchasers.” The U.S. Department of  
4 Justice also pledges federal support to encourage and assist gun sellers in playing an active  
5 role preventing handguns from coming into the hands of criminals.

6 22.

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

14 23.

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

19 24.

20 The ATF and NSSF, through a joint program entitled “Don’t Lie for the Other Guy,”  
21 make clear that firearms dealers have an obligation to not simply rely on whether a  
22 prospective purchaser states on the Form 4473 that she is not buying the firearm for someone  
23 else, but rather, dealers must confirm the legality of the gun sales they make and not  
24 complete a sale when there are grounds to be uncertain as to whether the purchaser is buying



1 the gun for someone else.

2 25.

3 The joint ATF/NSSF program sets forth recommended practices for ensuring that  
4 guns sold by gun dealers are not sold to straw purchasers and passed on to criminals. By way  
5 of example, it provides:

6 Questions For All Purchasers You Do Not Personally Know:

- 7 1. Is the handgun for you or for someone else?  
8 2. If someone else, is this a gift?  
9 3. What is the intended use – personal protection, deer hunting, target  
shooting?  
4. What type of firearm are you interested in or most comfortable with?

10 \* \* \*

11 If suspicions arise, it is more prudent to **follow the precautionary principle**  
12 **of politely refusing the sale** to protect yourself from the risk of contributing  
to a possible illegal transaction. It's not just good business. It's your  
responsibility.

13 “Don't Lie for the Other Guy: A Retailer's Guide to Recognizing and Deterring  
14 Strawman Purchases.” (Emphasis in original).

15 26.

16 Responsible firearms dealers use best practices including asking prospective  
17 purchasers questions such as their experience with firearms, their intended use of the  
18 firearms, and whether they are buying the firearm(s) for themselves. This is done  
19 both to provide customers with the product that they want and is best for them, and to  
20 screen for potential straw purchasers.

21 27.

22 A firearms dealer exercising reasonable care would know that straw purchasers and  
23 firearms traffickers often purchase multiple firearms within relatively short periods of time,  
24

1 particularly certain types of firearms, including certain semiautomatic firearms and  
2 handguns. Therefore, a reasonable, law-abiding firearms dealer would subject customers to  
3 heightened scrutiny if and when they buy a second or third semiautomatic handgun in a  
4 limited period of time, to determine if they are a straw purchaser or trafficker.

5 28.

6 In short, ATF and NSSF have made clear that gun dealers violate their duties if they  
7 bury their heads in the sand and fail to inquire about or ignore potential indicators of a straw  
8 purchase or otherwise illegal sale.

### 9 ALLEGATIONS

10 29.

11 WPE buys and sells guns throughout the State of Oregon. It also serves as a  
12 middleman for gun sales made between purchasers and both in-state and out-of-state gun  
13 dealers, including purchases made via the Internet.

14 30.

15 WPE is located in North Bend, Oregon, which is a neighboring town to Coos Bay,  
16 Oregon, where Jeffrey Boyce resided with his mother, Ms. Boyce.

17 31.

18 J&G specializes in the sale of guns and ammunition. Through its website, Defendant  
19 J&G engages in the interstate sale of guns and ammunition, including the sale of guns and  
20 ammunition into Multnomah County, Oregon.

21 32.

22 On December 12, 2011, Ms. Boyce acquired an AK-47 assault rifle from WPE on  
23 behalf of Jeffrey Boyce. The purchase of an AK-47 is a potential indicator of a person  
24

1 obtaining a firearm for illegal purposes, since it is not a traditional hunting or home defense  
2 firearm, was banned under federal law for 10 years, and is used by many mass shooters.

3 33.

4 On January 21, 2012, Ms. Boyce acquired a Makarov 9mm semi-automatic pistol  
5 from WPE on behalf of Jeffrey Boyce.

6 34.

7 On February 27, 2012, Ms. Boyce acquired a Rock Island semi-automatic pistol from  
8 WPE on behalf of Jeffrey Boyce.

9 35.

10 At the times of these acquisitions, Jeffrey Boyce's mental health issues, prior criminal  
11 convictions, and potential drug abuse likely rendered him ineligible to acquire these weapons  
12 directly from a gun dealer. On information and belief, it was due to these risks that Ms.  
13 Boyce acted as a straw purchaser for her son.

14 36.

15 The guns identified in paragraphs 33 and 34 were purchased online from J&G and  
16 transferred by J&G to WPE, which then transferred the guns to Ms. Boyce. None of these  
17 weapons were of a type typically used for hunting purposes and all were transferred to Ms.  
18 Boyce within a time period of less than three months.

19 37.

20 When an individual chooses to purchase a firearm via the Internet from a dealer in  
21 another state, federal regulations mandate that the out-of-state dealer transfer that firearm to a  
22 dealer in the state where the buyer resides, and that the in-state dealer perform the transfer to  
23 the buyer by, among other things, accurately completing a Form 4473.

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38.

The in-state dealer in this scenario will typically charge a fee to the buyer for acting as a middleman.

39.

For each purchase specified in paragraphs 32, 33, and 34, Ms. Boyce completed a Form 4473, falsely certifying in response to question 11.a. that she was the “actual transferee/buyer of the firearm(s) listed on this form.” On each Form 4473, she also certified that: “I understand that answering ‘yes’ to question 11.a. if I am not the actual buyer is a crime punishable as a felony under Federal law.”

40.

On behalf of WPE, Mr. Sinatra signed the Form 4473 for the transfer of the Makarov 9mm semi-automatic pistol to Ms. Boyce. Brad Keith, an employee of WPE, signed the Form 4473 for the transfer of the Rock Island pistol to Ms. Boyce.<sup>1</sup>

41.

Ms. Boyce transferred each of the guns identified in paragraphs 32, 33, and 34 to her son, Jeffrey Boyce, whom she knew had a history of criminality, potential illegal drug abuse, and mental illness including delusions. Indeed, Ms. Boyce told law enforcement that before he killed Kirsten Englund, Jeffrey Boyce was bi-polar and psychotic and had been suffering from delusions that the government had bugged him, his car, and his phone.

42.

Jeffrey Boyce paid for the firearms he used in his crime spree and to murder Kirsten Englund (*i.e.*, they were not gifts). Indeed, the J&G sales invoice for the Rock Island semi-

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<sup>1</sup> Plaintiff is unaware of which WPE employee executed the Form 4473 that was completed in connection with WPE’s transfer of the AK-47 assault rifle to Ms. Boyce.

1 automatic pistol specifically identifies Jeffrey Boyce as the purchaser, stating: “SOLD TO:  
2 JEFFREY BOYCE FOR TRANSFER.” The invoice also shows that Jeffrey Boyce used his  
3 credit card for this purchase. Upon information and belief, the invoice for the Makarov pistol  
4 lists the same credit card. This information made clear that Jeffrey Boyce was the true  
5 purchaser of the Rock Island pistol and that any other person attempting to acquire that  
6 firearm on his behalf was acting as an illegal straw purchaser.

7 43.

8 Though it is a licensed federal firearms dealer with the same responsibility as World  
9 Pawn Exchange and any other gun seller to ensure that guns are not sold to straw purchasers,  
10 J&G engages in the unlawful sale of guns to straw purchasers for transfer amongst family  
11 members.

12 44.

13 J&G advertises on its website to prospective purchasers that:

14 **Can I buy a gun for my friend? What about for my child?**

15 It is normally illegal to purchase a firearm for another person; this is called a  
16 straw-man purchase and is prohibited. The background check at the time of  
17 purchase needs to be done on the person who the firearm is actually for. There  
18 are exceptions to this regulation for gifts, thus we allow it for family  
19 members. Parent or Grandparent can buy for their children, grandchildren and  
vice versus. Husband and wife can buy for each other. Siblings cannot buy for  
each other. These exceptions are valid only provided that the person the gun is  
for is not restricted from possessing a firearm.”

19 J&G website at <http://www.jgsales.com/faq.php> (emphasis added).

20 45.

21 J&G’s statements in paragraph 44 about transfers between family members is  
22 contrary to the true state of the law. Although federal law permits individuals to purchase  
23 firearms as gifts for third parties, there is no “family exception” for illegal straw purchases. If  
24

1 an individual certifies on the Form 4473 that she is the actual transferee or buyer of the  
2 firearm, when in fact a third party such as Jeffrey Boyce pays for the firearm, that individual  
3 has made a false statement on a federal form and committed a straw purchase; it is irrelevant  
4 whether the individual and the third party are related.

5 46.

6 Although J&G is a federally licensed firearms dealer that has represented to the ATF  
7 that it understands and will abide by all federal firearms laws and regulations, it purposefully  
8 misrepresents constitutional and federal law to customers seeking to purchase firearms:

9 **Aren't all these rules unconstitutional according to the 2nd amendment?**

10 Yes. The 2nd amendment, as commonly accepted by most constitutional  
11 scholars, means just what it says; I know, why do we need scholars to tell us it  
12 means just what it says?. It clearly says that your right to own a firearm is not  
- an infringement.

13 J&G website at <http://www.jgsales.com/faq.php>. J&G's statements indicate that it  
14 does not respect the federal laws it is obligated as a federally licensed dealer to  
15 follow.

16 47.

17 Despite its obligations as a federal firearms licensee, J&G participated or aided and  
18 abetted in the illegal transfer of at least two firearms from one family member to another,  
19 from Diane Boyce to Jeffrey Boyce—transfers that J&G misrepresents as lawful on its  
20 website.

21 48.

22 The invoice that J&G created for the Rock Island transaction indicated on its face that  
23 Jeffrey Boyce was the purchaser (who the firearm was “sold to”). However, it also contained  
24

1 Diane Boyce's name in the same section of the form as Jeffrey Boyce's. Had J&G heeded  
2 this red flag and checked its records for earlier transactions to either of these individuals, it  
3 would have been alerted that the invoice associated with the Makarov pistol identified Diane  
4 Boyce as the purchaser.

5 49.

6 Comparison of its own records for the Rock Island and Makarov purchases would  
7 have further confirmed to J&G that: (a) the invoice for the Makarov pistol indicated that it  
8 was "sold to" Diane Boyce using the same credit card number as was used by Jeffrey Boyce  
9 for the Rock Island pistol; (b) the same purchaser address was used for both transactions; (c)  
10 the same "customer number" was used for both transactions; and (d) neither weapon was of a  
11 type typically used for hunting.

12 50.

13 In the face of these numerous red flags, J&G should have refused to sell or transfer to  
14 WPE the Rock Island pistol and contacted WPE and law enforcement authorities to alert  
15 them that both transactions may have been straw purchases.

16 51.

17 Upon information and belief, although J&G knew or should have known that the law  
18 and reasonable care requires that a firearms dealer must confirm the legality of purchases and  
19 not engage in straw sales, J&G established and maintained its online sales business to not  
20 obtain any such relevant information about prospective purchasers. Defendant J&G's  
21 negligence in selling guns that it knew or should have known would be illegally transferred  
22 caused or were a substantial factor in causing the death Kirsten England.

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52.

Upon information and belief, WPE failed to exercise reasonable care or act within its legal responsibilities, and failed to use the firearms industry best practices and recommended firearms sales protocols, including but not limited to those alleged above. Shirking its responsibility to refuse to sell guns to a suspicious straw purchaser, WPE put the fee it received for transferring these guns to Ms. Boyce ahead of compliance with the law and the public's safety.

53.

On or before February 27, 2012, WPE knew or should have known that Ms. Boyce was acting as a straw purchaser for Jeffrey Boyce. Nonetheless, WPE made the conscious choice to transfer the Rock Island semi-automatic pistol to Ms. Boyce.

54.

On or before February 27, 2012, both WPE and Ms. Boyce made the conscious choice not to call the police or any other law enforcement agency and let them know that over the prior three months a total of three firearms had been transferred in violation of federal and Oregon laws. WPE and Ms. Boyce thereby prevented law enforcement authorities from investigating these illegal firearm transfers, discovering that Ms. Boyce had entrusted the firearms identified in paragraphs 32, 33, and 34 to her mentally-ill son, and retrieving those firearms and/or apprehending Jeffrey Boyce before he illegally used those firearms, including to kill Kirsten Englund.

55.

WPE knew or should have known that to sell firearms with reasonable care and in compliance with its legal obligations it was required to screen for straw purchasers. WPE



1 was presented with multiple opportunities to identify Ms. Boyce as a straw purchaser before  
2 the killing of Kirsten Englund and chose instead to sell firearms to her, chose not to inform  
3 law enforcement, and chose to do nothing to correct its illegal transfers.

4 56.

5 WPE and J&G aided and abetted, enabled, facilitated, or allowed Ms. Boyce to  
6 submit federal gun purchase Forms 4473 that falsely identified her as the true purchaser of  
7 the guns identified in paragraphs 32, 33, and 34. Moreover, by engaging in illegal sales to a  
8 straw purchaser, WPE and J&G knowingly violated and/or aided and abetted others in  
9 violating federal and Oregon laws applicable to the sale and marketing of firearms, including,  
10 but not limited to, 18 U.S.C. §§ 922(a)(1)(A), 922(a)(6), 922(d), 922(g), 922(m),  
11 924(a)(1)(A) and ORS §§ 166.416 and 166.418. By its unlawful conduct, WPE and J&G  
12 allowed guns to be obtained by a straw purchaser, Ms. Boyce. It was reasonably foreseeable  
13 that those guns that WPE and J&G sold in violation of federal and Oregon law would be  
14 provided to someone else who would use them to injure or kill innocent victims, which is,  
15 tragically, what occurred here.

16 57.

17 Ms. Boyce acted as a straw purchaser for her son Jeffrey Boyce and in so doing  
18 violated, or aided and abetted others in violating, federal and Oregon laws applicable to the  
19 sale and marketing of firearms, including, but not limited to, 18 U.S.C. §§ 922(a)(1)(A),  
20 922(a)(6), 922(d), 922(g), 922(m), 924(a)(1)(A) and ORS §§ 166.416 and 166.418. By her  
21 unlawful conduct, Ms. Boyce provided guns to her son, Jeffrey Boyce, who should not have  
22 been permitted to possess guns and, on information and belief, could not purchase guns.  
23 Because of her close personal contact with her son and her experience as a mental health  
24

1 professional, it was reasonably foreseeable to Ms. Boyce that Jeffrey Boyce would ultimately  
2 use the guns that Ms. Boyce purchased on his behalf in violation of federal and Oregon law  
3 to injure or kill innocent victims, such as Kirsten Englund.

4 58.

5 On April 28, 2013, Kirsten Englund, then 57-years old, drove up Highway 101 in  
6 Oregon to visit her son in Eugene, Oregon. At around 7:30 a.m., Ms. Englund pulled over to  
7 a scenic overlook in Douglas County, Oregon to view a nearby lighthouse. Jeffrey Boyce,  
8 who happened to be in the area and was suffering from delusions, pulled out the Makarov  
9 pistol that he acquired from WPE and J&G, through Diane Boyce as a straw purchaser, and  
10 shot Ms. Englund six times at close range. Jeffrey Boyce then retrieved a gas can from the  
11 pick-up truck he was driving and, after pouring gas over Kirsten Englund's body, lit her on  
12 fire and then shot her once more.

13 59.

14 Later that day, Jeffrey Boyce approached a car stopped at a stop light in Marin  
15 County, California and pointed his Rock Island pistol, also acquired for him from WPE and  
16 J&G by his mother, at the driver and threatened to shoot him unless he drove Jeffrey Boyce  
17 to a church. Once they arrived at the church, Jeffrey Boyce drove off in the vehicle.

18 60.

19 Thereafter, in Greenbrae, California, Jeffrey Boyce approached another driver. He  
20 stuck the same Rock Island pistol in the woman's chest, threatening to shoot her unless she  
21 allowed him to enter her car.

22 61.

23 Shortly thereafter, Jeffrey Boyce was apprehended while attempting to gain entry into  
24

1 a nearby house. At the time of his arrest, Jeffrey Boyce was carrying his Rock Island pistol  
2 and was in possession of his AK-47 assault rifle, acquired for him from WPE by his mother,  
3 Ms. Boyce.

4 62.

5 After his arrest, Jeffrey Boyce told law enforcement that he used the Makarov to kill  
6 Kirsten Englund. The Oregon State Police later concluded that the six spent shell casings  
7 and a magazine recovered at the location of Ms. Englund’s murder were from a 9mm  
8 Makarov pistol.

9 63.

10 In the pick-up truck that Jeffrey Boyce drove to the location where he murdered  
11 Kirsten Englund, the police found a Ruger .22 caliber semi-automatic rifle, which according  
12 to the ATF’s records was acquired by Ms. Boyce in 2008, a large volume of ammunition,  
13 methadone, valium (prescribed to Ms. Boyce), and marijuana. While he was in jail, Jeffrey  
14 Boyce requested that he be provided methadone<sup>1</sup>, for which he claimed to have a  
15 prescription. While incarcerated, Jeffrey Boyce committed suicide.

16 **FIRST CLAIM FOR RELIEF**

17 (Negligence Against World Pawn Exchange, LLC, J&G II, Inc., Richard Sinatra,  
18 and Diane Boyce)

19 64.

20 Plaintiff re-alleges and incorporates by reference paragraphs 1 to 63.

21 65.

22 \_\_\_\_\_  
23 <sup>1</sup> Methadone is a narcotic that reduces withdrawal symptoms in people addicted to heroin or  
24 other narcotic drugs without causing the “high” associated with the drug addiction.  
Methadone is also used as a pain reliever and as part of drug addiction detoxification and  
maintenance programs.

1 WPE and J&G knew or in the exercise of reasonable care should have known that  
2 Ms. Boyce was a straw purchaser illegally purchasing guns on behalf of someone else.

3 66.

4 On information and belief, WPE chose not to implement or follow reasonable  
5 business practices and screening procedures designed to prevent the sale or transfer of guns  
6 to straw-purchasers, including the ATF and NSSF recommendations of “Don’t Lie for the  
7 Other Guy.” Had WPE implemented these or similar screening procedures it would have  
8 confirmed that Diane Boyce was acting as a straw purchaser in violation of federal and  
9 Oregon law.

10 67.

11 Ms. Boyce’s purchases of the three guns in a time period of only 78 days specified in  
12 paragraphs 32, 33, and 34, coupled with the invoice for one of those guns bearing Jeffrey  
13 Boyce’s name as “SOLD TO,” bear the hallmarks of straw purchases and are red flags that  
14 responsible gun dealers would heed.

15 68.

16 WPE and J&G knew or should have known that Ms. Boyce was an illegal straw  
17 purchaser, and that allowing Ms. Boyce to obtain a firearm as a straw purchaser violated  
18 federal and Oregon laws applicable to the sale of firearms, including, but not limited to, 18  
19 U.S.C. §§ 922(a)(1)(A), 922(a)(6), 922(d), 922(g), 922(m), 924(a)(1)(A) and ORS §§  
20 166.416 and 166.418.

21 69.

22 WPE knew or should have known that transferring guns to Ms. Boyce, a straw  
23 purchaser, created an unreasonable and foreseeable risk that the weapons provided would be  
24

1 used to cause harm, including death.

2 70.

3 J&G shirked its responsibility to confirm the legality of firearms sales before any  
4 sale, and to only sell firearms to legal purchasers, and to refuse to sell guns to a suspicious  
5 purchaser. J&G knew or should have known that by engaging in the transactions for the  
6 Makarov and Rock Island pistols, they created an unreasonable and foreseeable risk that the  
7 weapons provided would be used to cause harm, including death.

8 71.

9 WPE shirked its responsibility to confirm the legality of firearms sales before  
10 completing any sale, and to only sell firearms to legal purchasers, and to refuse to sell guns to  
11 a suspicious purchaser. Instead, WPE put the fee it received for transferring these guns to  
12 Ms. Boyce ahead of compliance with the law and the public's safety.

13 72.

14 WPE and J&G were negligent the following ways:

- 15 a. On information and belief, WPE and J&G failed to develop policies and  
16 procedures to screen prospective buyers to ensure that they are not straw purchasers;
- 17 b. On information and belief, WPE and J&G failed to implement policies and  
18 procedures to screen prospective buyers to ensure that they are not straw purchasers;
- 19 c. On information and belief, WPE and J&G chose to hire employees that lacked  
20 the knowledge and experience needed to recognize the red flags indicating likely straw  
21 purchasers and prevent straw purchases from taking place;
- 22 d. On information and belief, WPE and J&G failed to train employees on  
23 policies and procedures designed to identify and refuse to sell guns to straw purchasers;

1 e. On information and belief, WPE and J&G failed to supervise its employees to  
2 ensure that they followed policies and procedures designed to identify and refuse to sell guns  
3 to straw purchasers;

4 f. On information and belief, WPE and J&G chose not to screen or otherwise  
5 ask Ms. Boyce or Jeffrey Boyce questions that would have revealed Diane Boyce's status as  
6 a straw purchaser;

7 g. WPE and J&G ignored that Ms. Boyce and/or Jeffrey Boyce were seeking to  
8 purchase multiple guns that are not typically used for hunting over a short period of time and,  
9 in connection with the Rock Island purchase, ignored clear, documented proof that Ms.  
10 Boyce was acting as a straw purchaser for Jeffrey Boyce;

11 h. WPE and J&G should have refused to sell the guns identified in paragraphs  
12 32, 33, and 34;

13 i. WPE should have notified law enforcement (*i.e.*, the police or the ATF) of  
14 Ms. Boyce's illegal purchases of firearms on behalf of Jeffrey Boyce; and/or

15 j. J&G should have notified law enforcement (*i.e.*, the police or the ATF) of the  
16 Makarov and Rock Island transactions or put WPE on notice of its reasonable suspicions.

17 73.

18 Diane Boyce was negligent, including in the following ways:

19 a. Ms. Boyce acted as a straw purchaser to illegally acquire at least three  
20 firearms from WPE on behalf of Jeffrey Boyce over a period of less than three months;  
21 and/or

22 b. Ms. Boyce transferred these firearms to Jeffrey Boyce in violation of law, and  
23 while knowing that Jeffrey Boyce had a history of criminal behavior and convictions,  
24

1 suffered mental health issues, and was taking the prescription drug methadone and possibly  
2 illegal drugs.

3 74.

4 WPE's, J&G's, and Ms. Boyce's conduct caused a foreseeable risk of harm to an  
5 interest protected by law. WPE's, J&G's and Ms. Boyce's conduct was unreasonable in light  
6 of that risk. WPE's, J&G's, and Ms. Boyce's conduct caused harm to Kirsten Englund that  
7 was of the general type associated with the negligent conduct in which they engaged.

8 75.

9 Moreover, WPE, J&G, and Diane Boyce could have prevented Kirsten Englund's  
10 death by alerting law enforcement that Ms. Boyce illegally acquired guns on behalf of her  
11 son, Jeffrey Boyce, but they negligently failed to do so.

12 76.

13 WPE's, J&G's, and Ms. Boyce's negligent acts and omissions alleged herein directly  
14 and proximately caused the wrongful death of Kirsten Englund.

15 **Negligence *Per Se***

16 77.

17 By selling or delivering guns to an illegal straw purchaser, WPE and J&G violated  
18 federal and Oregon law and/or aided and abetted Diane Boyce in violating federal and  
19 Oregon law in the following ways:

20 a. WPE and J&G delivered guns into the possession of Ms. Boyce when  
21 it knew or should have known that the statements Ms. Boyce made on the Forms  
22 4473 were false and that straw purchases were taking place in violation of 18 U.S.C.  
23 § 922(d) and other federal laws; and/or





1 shooters;

2           b.       On information and belief, WPE did not follow the ATF/NSSF best practices  
3 for identifying and preventing sales to straw purchasers during the December 2011 transfer.  
4 Had WPE taken these or similar precautions, it would have confirmed that Ms. Boyce was  
5 acting as a straw purchaser in violation of federal and Oregon law;

6           c.       After the transfer of the AK-47 to Ms. Boyce on December 12, 2011, WPE  
7 failed to report to law enforcement that it had sold a gun to a straw purchaser or suspected  
8 straw purchaser;

9           d.       WPE and J&G did not use reasonable efforts to ensure that the Makarov pistol  
10 was not transferred to a straw purchaser on January 21, 2012;

11           e.       On information and belief, WPE did not follow the ATF/NSSF best practices  
12 for identifying and preventing sales to straw purchasers during the January 2012 transfer.  
13 Had WPE taken these or similar precautions, it would have confirmed that Ms. Boyce was  
14 acting as a straw purchaser in violation of federal and Oregon law;

15           f.       Even after the transfer of two guns to Ms. Boyce in the period of just over one  
16 month, WPE and J&G failed to report to law enforcement that it had sold guns to a straw  
17 purchaser or suspected straw purchaser;

18           g.       WPE and J&G did not use reasonable efforts to ensure that Jeffrey Boyce's  
19 purchase of the Rock Island pistol on February 27, 2012 was not transferred to Ms. Boyce as  
20 a straw purchaser;

21           h.       On information and belief, WPE did not use reasonable care or follow the  
22 ATF/NSSF best practices for identifying and preventing sales to straw purchasers during the  
23 February 2012 transfer. Had WPE taken these or similar precautions, it would have  
24

1 confirmed that Ms. Boyce was acting as a straw purchaser in violation of federal and Oregon  
2 law;

3 i. WPE and J&G performed the February 27, 2012 transfer of the Rock Island  
4 pistol even though the invoice for the purchase of this firearm specifically identified Jeffrey  
5 Boyce as the purchaser; and/or

6 j. Even after three blatantly illegal or highly suspicious purchases in 78 days,  
7 WPE and J&G did not report to law enforcement that it had transferred the guns to a straw  
8 purchaser or suspected straw purchaser.

9 81.

10 Diane Boyce did not take simple reasonable steps to prevent the murder of Kirsten  
11 Englund and showed an outrageous indifference to the health safety and welfare of others in  
12 the following ways:

13 a. Ms. Boyce acted as a straw purchaser to illegally acquire at least three  
14 firearms from WPE on behalf of Jeffrey Boyce over a period of less than three months;  
15 and/or

16 b. Ms. Boyce transferred these firearms to Jeffrey Boyce in violation of federal  
17 and Oregon law, and while knowing that Jeffrey Boyce had a history of criminal behavior  
18 and convictions, suffered mental health issues, and was taking the prescription drug  
19 methadone and possibly illegal drugs.

20 82.

21 WPE and J&G repeatedly and blatantly violated federal and Oregon law and failed to  
22 act in conformity with the industry standards and practices of responsible gun dealers.

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83.

Ms. Boyce repeatedly and blatantly violated federal and Oregon law and failed to act like a reasonably prudent person or reasonably prudent mental health professional.

84.

WPE's, J&G's, and Ms. Boyce's repeated and blatant failures go beyond carelessness or lack of ordinary care and reflect a reckless, wanton, willful, deliberate or intentional disregard for federal and Oregon law and the public's safety, including the safety of Kirsten Englund.

85.

WPE's, J&G's, and Ms. Boyce's conduct reveals a state of mind indicative of an indifference to the probable consequences of their acts.

86.

WPE's, J&G's, and Ms. Boyce's reckless, wanton, willful, deliberate, or intentional misconduct was outrageous and constitutes gross negligence.

**THIRD CLAIM FOR RELIEF**

(Negligent Entrustment Against World Pawn Exchange, LLC, J&G II, Inc., Richard Sinatra, and Diane Boyce)

87.

Plaintiff re-alleges and incorporates by reference paragraphs 1 to 86.

88.

Jeffrey Boyce lived with Ms. Boyce in Coos Bay, Oregon.

89.

Ms. Boyce was especially well-positioned to recognize Jeffrey Boyce's signs of

1 mental instability and violent propensities given her close daily contact with him and her  
2 training as a mental health professional.

3 90.

4 Ms. Boyce told law enforcement that before he killed Kirsten Englund, Jeffrey Boyce  
5 was bi-polar and psychotic, and had been suffering from delusions that the government had  
6 bugged him, his car, and his phone.

7 91.

8 At times relevant to this action, each of WPE, J&G, and Ms. Boyce controlled the  
9 gun Jeffrey Boyce used to murder Kirsten Englund, as well as at least one of the two other  
10 firearms he had with him and used in threatening to kill at least two other individuals during  
11 his multi-state crime spree on April 28, 2013. WPE and Diane Boyce also had, at times  
12 relevant to this action, control over the third firearm (AK-47) used by Jeffrey Boyce in his  
13 crime spree. Prior to Jeffrey Boyce's crime spree, these three firearms were kept in Diane  
14 Boyce's home, which she shared with Jeffrey Boyce.

15 92.

16 Ms. Boyce knew or should have known that Jeffrey Boyce should not possess guns  
17 because of his history of criminality, mental health issues, and possible use of illegal drugs.  
18 It was reasonably foreseeable that Jeffrey Boyce might use guns to harm others, including  
19 committing murder. Nonetheless, Ms. Boyce entrusted guns to Jeffrey Boyce. Ms. Boyce's  
20 negligent entrustment of guns to Jeffrey Boyce was the direct and proximate cause of Kirsten  
21 Englund's death.

22 93.

23 WPE and J&G knew or reasonably should have known that Ms. Boyce was a straw  
24

1 purchaser who would unlawfully transfer guns sold to her thereby causing unreasonable risk  
2 of harm to others.

3 94.

4 Because WPE and J&G knew or reasonably should have known that Ms. Boyce was a  
5 straw purchaser, they should have refused to sell or transfer these guns to Ms. Boyce. Had  
6 WPE and J&G refused to sell or transfer Ms. Boyce the guns, they would have prevented Ms.  
7 Boyce from possessing dangerous weapons and transferring them to a dangerous person who  
8 later used the guns for criminal purposes, including the murder of Kirsten Englund.

9 95.

10 Because WPE and J&G transferred the guns to Ms. Boyce, Ms. Boyce was able to  
11 illegally acquire for Jeffrey Boyce the guns that he used to kill Ms. Englund and to threaten  
12 to kill others.

13 96.

14 WPE and J&G negligently entrusted Ms. Boyce with the guns identified in  
15 paragraphs 32, 33, and 34.

16 97.

17 WPE's and J&G's negligent entrustment of the Makarov 9mm semi-automatic pistol  
18 to Ms. Boyce, and Ms. Boyce's negligent entrustment of that same gun to Jeffrey Boyce, was  
19 the direct and proximate cause of Kirsten Englund's death.

20 98.

21 WPE and J&G aided and abetted Ms. Boyce in her negligent entrustment of the guns  
22 identified in paragraphs 32, 33, and 34 to Jeffrey Boyce, who was mentally-ill, possibly using  
23 illegal drugs, and had committed criminal offenses in the past.

1 **FOURTH CLAIM FOR RELIEF**

2 (Public Nuisance Against World Pawn Exchange, LLC, J&G II, Inc., and Richard Sinatra)

3 99.

4 Plaintiff re-alleges and incorporates by reference paragraphs 1 to 98.

5 100.

6 By failing to use reasonable care in its sales of firearms, failing to implement  
7 adequate policies and protocols for training and supervising their salespeople, failing to  
8 screen prospective buyers to prevent unlawful straw purchases, and by ignoring or failing to  
9 recognize the red flags indicating likely straw purchases, as demonstrated by the transfer of  
10 firearms to Ms. Boyce, WPE and J&G, upon information and belief, supplied guns to  
11 criminals and others prohibited by law. Thereby WPE and J&G negligently and/or  
12 knowingly participated in, created, and maintained an unreasonable interference with rights  
13 common to the general public, which constitutes a public nuisance under Oregon law. In  
14 addition, J&G contributed to the maintenance of public nuisance by disseminating and, upon  
15 information and belief, relying on false information regarding the sale of guns for family  
16 members, which encouraged purchasers seeking to buy guns illegally to seek out J&G or to  
17 engage in unlawful purchases or transfers of guns.

18 101.

19 WPE and J&G negligently, recklessly and/or intentionally engaged in the conduct  
20 alleged herein.

21 102.

22 WPE's, J&G's, and Ms. Boyce's interference with rights common to the public,  
23 including public health, safety, comfort, and peace, is unreasonable. This interference is not  
24

1 insubstantial or fleeting, and involves deaths, like Kirsten Englund’s, and serious injuries and  
2 a severe disruption of public peace, order and safety. Upon information and belief, WPE’s  
3 and J&G’s interference is continuing, producing a permanent and long-lasting effect.

4 103.

5 WPE and J&G knew or should know that their conduct would have a significant  
6 effect upon public rights and interests.

7 104.

8 WPE’s and J&G’s conduct in creating and maintaining this interference with public  
9 rights facilitates the circumvention and violation of federal and Oregon laws restricting and  
10 regulating gun sales and possession, and/or, upon information and belief, facilitates  
11 widespread violation of such laws.

12 105.

13 WPE and J&G each knew that they could have taken precautions that would have  
14 eliminated or minimized the injuries to the general public but chose not to do so.

15 106.

16 WPE’s and J&G’s negligence and unlawful conduct, including failing to implement  
17 adequate protocols for training and supervising its salespeople and for screening prospective  
18 buyers to prevent unlawful straw sales and not disseminating false information about laws  
19 governing gun purchases, contributed to the creation and/or maintenance of the public  
20 nuisance.

21 107.

22 WPE and J&G were capable of preventing their contribution to the public nuisance  
23 and the resulting danger and harm by altering their conduct.

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108.

As a result of WPE’s and J&G’s conduct and the public nuisance they participated in creating and maintaining, Kirsten Englund and Plaintiff suffered special injuries distinguishable from those suffered by the general public. WPE’s and J&G’s participation in creating and maintaining the public nuisance was a substantial cause in bringing about Kirsten Englund’s and Plaintiff’s injuries.

**DAMAGES AS TO ALL CLAIMS**

109.

The acts and omissions of Defendants, collectively and/or individually, directly and proximately caused the death of Kirsten Englund, for which Plaintiff seeks monetary damages and equitable relief, together with interest and costs, to the fullest extent permitted by law.

110.

This action seeks non-economic damages for the pain and suffering of decedent Kirsten Englund before her death and such sum of money as will justly, fairly, and reasonably compensate Kirsten Englund’s heirs for their loss of society and companionship in a sum, not to exceed \$8,000,000, that a jury determines to be reasonable.

111.

As a further direct and proximate result of Defendants’ conduct, Kirsten Englund’s estate has incurred approximately \$1,000,000 of economic damages.

112.

Plaintiff reserves the right to amend this Complaint in accordance with ORS § 31.725.



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WHEREFORE, Plaintiff prays for judgment as follows:

1. Economic damages in the amount of \$1,000,000, subject to amendment at or before trial;
2. Non-economic damages in the amount of \$8,000,000, subject to amendment at or before trial;
3. Injunctive relief, including but not limited to an Order compelling WPE and J&G to reform their policies, procedures, and training with regard to the sale of firearms, including taking steps necessary to prevent unlawful sales to straw purchasers and to otherwise prevent the unlawful entrustment of firearms to persons who are prohibited or are otherwise unfit to possess them;
4. Plaintiff's costs and disbursements incurred in connection with this action;

and

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1           5.       Such further and other relief as the Court deems just, proper and equitable.

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3           Dated this 7<sup>th</sup> day of January, 2016

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D'AMORE LAW GROUP, P.C.

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