

COMMONWEALTH OF MASSACHUSETTS
WORCESTER, SS.

WORCESTER SUPERIOR COURT
CIVIL ACTION NO.

JUANA HERNANDEZ, AS ADMINISTRATRIX)
OF THE ESTATE OF DANNY NICACIO or)
DANNY GUZMAN, MARK ZARROW, ESQ. AS)
GUARDIAN OF TAMMY NICACIO,)
AND GLENDA LEE PAGAN AS MOTHER AND)
NEXT FRIEND OF SELENA NICACIO,)
Plaintiffs)

COMPLAINT and
DEMAND FOR JURY TRIAL

v.)

KAHR INC., D/B/A, KAHR ARMS, INC.,)
KAHR AUTO ORDNANCE CORP.,)
SAEILO, INC.,)
SAEILO MACHINERY MA, INC.,)
SAEILO MACHINERY USA, INC.,)
SAEILO MANUFACTURING INDUSTRIES,)
MACHINE INDUSTRIES, INC.,)
SAEILO EQUITY HOLDINGS, LLP)
ONE UP ENTERPRISES, INC.,)
MARK CRONIN,)
ROBERT JACHIMCZYK, and)
EDWIN NOVAS,)
Defendants)

This is a wrongful death action arising from the corporate defendants' negligence in operating a firearm manufacturing business.

THE PARTIES

1. Plaintiff decedent, Danny Nicacio also known as Danny Guzman, a natural person who died on December 24, 1999, as a result of gunshot wounds, resided in Worcester, Worcester County, Massachusetts.
2. Plaintiff Juana Hernandez is the mother of decedent and the Administratrix of his estate, having been so appointed by order of the Probate Court in Worcester County on January 29, 2002. Exhibit 1. She sues in her representative capacity. She has her usual place of home and abode in Worcester, Worcester County, Massachusetts.
3. At the time of his death, plaintiff decedent had sired two daughters, Selena Nicacio and Tammy Nicacio.

4. Plaintiff Tammy Nicacio has a usual place of home and abode in Southbridge, Worcester County, Massachusetts.
5. Plaintiff Selena Nicacio has a usual place of residence in Jayuya, Commonwealth of Puerto Rico. She was at all times material to this complaint a resident of Worcester, Worcester County, Massachusetts.
6. Plaintiff Mark Zarrow, Esquire, is a duly licensed attorney in the Commonwealth of Massachusetts with a usual place of business at 34 Mechanic Street, Worcester, Worcester County, Massachusetts.
7. Plaintiff Mark Zarrow, Esquire is the guardian of Tammy Nicacio by virtue of a decree ordered by the Worcester Probate and Family Court of The Massachusetts Trial Court on January 2, 2002. Exhibit 2.
8. Plaintiff Glenda Lee Pagan is the Mother and Next friend of plaintiff Selena Nicacio, who resides in the Commonwealth of Puerto Rico. She is suing on behalf of her minor daughter.
9. Defendant Kahr Inc. d/b/a Kahr Arms or Kahr Auto Ordnance is a wholly owned subsidiary of Saeilo, Inc., and was organized in the State of Delaware in 1994, according to the Foreign Corporation Certificate (hereafter "FCC") filed with the Office of the Massachusetts Secretary of State.
10. As of May 13, 1999, Kook Jin Moon (son of the Rev. Sun Myung Moon, founder of the Unification Church) held seventy-nine percent of Saeilo, Inc. stock (82% as of August 31, 1999). Saeilo, Inc. is the corporate parent of Kahr Inc. d/b/a Kahr Arms or Kahr Auto-Ordnance Corporation. According to an annual firearms manufacturing and export report of the Bureau of Alcohol, Tobacco and Firearms in 1998, Saeilo, Inc. manufactured 7,386 pistols, of which 5,414 were 9mm, two were .380 cal. and 1,970 were .50 cal.
11. Defendant Machine Industries, Inc. held eighteen percent of Saeilo, Inc. stock as of May 13, 1999. Machine Industries, Inc. is located at 7777 Leesburg Pike, Suite 406N, Falls Church, VA 22043, County of Fairfax, VA. Robert Michael Runyon is president and director of Machine Industries, Inc. Mr. Runyon is also identified as a director of Saeilo, Inc. in that entity's Foreign Corporation Certificate filed with the Secretary of State of Massachusetts on March 18, 1999. His business address is listed as 7777 Leesburg Pike, Suite 406N, Falls Church, VA 22043, County of Fairfax, VA.
12. Defendant One Up Enterprises, Inc., also located at 7777 Leesburg Pike, Suite 406N, Falls Church, VA 22043, County of Fairfax, VA., is a holding company for many of the Unification Church's businesses, including wholly owned subsidiaries Saeilo Inc. and Saeilo Machinery (USA), Inc. According to Dunn & Bradstreet, Robert Michael Runyon is and has been president of Defendant One Up Enterprises, Inc. from 1977 to present. One Up has over 10 wholly or majority owned subsidiaries. Two of the major ones are News World Communications, Inc. Washington D.C. and Ginseng Up Corporation, New York, NY, started in 1981.

13. According to the Foreign Corporations Certificate (“FCC”), Kahr Inc.’s principal office is located at 630 Route 303, Blauvelt, New York 10913. Saeilo Equity Holdings, LLP also has its offices at 630 Route 303, Blauvelt, New York 10913. Its principal place of business is located at 184 Prescott St., Worcester, MA, and its assembly plant is located at 130 Goddard Memorial Drive, Worcester, MA.
14. According to its FCC, Kahr Inc.’s president is Kook Jin Moon, whose residential address is 550 E. Sunnyside Lane, Irvington, NY 10533. Kahr Inc.’s Secretary and Treasurer is Soji Wada, whose residential address is listed as 5 Moody Street, Worcester (sic), MA 01606.
15. According to the MA Foreign Corporation Annual Report (hereafter “FCAP”), certified 6/14/00, the president of Kahr Inc. is Frank Harris, whose business address is 201 Mountain View Ave. Wallkill, N.Y. 12589. Kook Jin Moon is named as Director and his business address is listed as 50 E Sunnyside Irvington, NY 10533. Kahr Inc.’s treasurer and clerk is Janet Wada with a business address of 48 Barnes Ave #3, Worcester, MA 01605. On the FCAP Kahr Inc.’s resident agent in the Commonwealth of Massachusetts is also listed as H/Q Corporate Services, Inc., 9 Crestway Road, E. Boston, MA 02128.
16. Defendant, Saeilo, Machinery MA, Inc. became a duly organized corporation in the State of Delaware in 1987. The president of Saeilo, Machinery MA, Inc. is listed as Soji Wada of 161 Providence Street, Worcester, Worcester County, Massachusetts. The treasurer is Soji Wada of the same address. A major shareholder is One Up Enterprises, Inc. The resident Agent/Clerk of Saeilo, Machinery MA, Inc. is CT Corporation System of 101 Federal Street, Boston, MA 02110. Hereafter, reference to Saeilo will also mean Saeilo Manufacturing Industries, the entity’s Internet marketing name.
17. Defendant, Saeilo Machinery (USA), Inc. became a duly organized corporation in the State of New York in 1981. The president of Saeilo Machinery (USA), Inc. is listed as Soon Jung Hong of 36719 Ruschin Dr., Newark, CA. Also identified as president of Saeilo Machinery (USA), Inc. in a September 10, 1996 FFL Application to the BATF is David Konn. David Konn is identified in Unification News for December 2001 as a speaker at the International Leadership Conference in New York on the issue of “One Community One Family” after the Sept. 11 tragedy. The treasurer of Saeilo Machinery (USA), Inc. is William Lee Flowers of 42-17 Bowne Street, Flushing, NY. The resident agent of this company is Chris Garcia of 184 Prescott Street, Worcester, Worcester County, Massachusetts.
18. According to the Chief Financial Officer of Saeilo Machinery, (USA) Inc., in a September 19, 1997 letter to an Inspector of the Bureau of Alcohol, Tobacco and Firearms, The only significant shareholders of Saeilo Machinery are One Up Enterprises, Inc. and Saeilo (USA), Inc. The only individual other than the officers and directors of Saeilo Machinery who exercises, “directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation...” as specified in 18 U.S.C. section 923(d)(1)(B), is Kook Jin Moon, who has an ownership interest in Saeilo (USA), Inc. and is president of Saeilo, Inc. an affiliate of Saeilo Machinery. A copy of that September 19, 1997 letter is attached as Exhibit 3.

19. Defendant, Saeilo, Inc. became a duly organized corporation in the State of Delaware in 1992. Kook Jin Moon is listed as president with an address of 630 Rte 303, Blauvelt, N.Y. 10913. Soji Wada of 184 Prescott Street, Worcester, Worcester County, Massachusetts is listed as Treasurer, and the resident Agent/Clerk of this company is listed as HIQ Corporate, 1205 Tucker Road, North Dartmouth, MA 02747.
20. From approximately April of 1994, until August of 1999, defendants Saeilo Machinery (USA), Inc., Saeilo Machinery MA, Inc., Saeilo, Inc. and Kahr, Inc. maintained a principal place of business at 184 Prescott Street, and more recently at Goddard Memorial Drive, Worcester, Worcester County, Massachusetts.
21. From approximately August of 1999, until the present, defendants Saeilo Machinery (USA), Inc., Saeilo Machinery MA, Inc., Saeilo, Inc. and Kahr, Inc. have maintained a place of manufacture at 130 Goddard Memorial Drive, Worcester, Worcester County, Massachusetts.
22. Defendant Robert Jachimczyk at all times relevant hereto had a principal place of abode at 5 Jade Hill Rd., Auburn, MA.
23. Defendant Mark Cronin at all times relevant hereto had a principal place of abode at 44 Huntington Avenue, Apt. 1B, Worcester, MA. At all times relevant to the Complaint, Mark Cronin was an employee of Kahr Arms, Inc., acting within the scope of his employment.
24. Defendant Edwin Novas, identified as the shooter of decedent, at all times relevant hereto had a principal place of abode at 6 Elizabeth Street, Worcester, MA. Mr. Novas is still at large. A Grand Jury indictment concluded that Novas did shoot and kill plaintiff decedent Danny Guzman and did also shoot Armando Maisonet, Jr. with said handgun on December 24, 1999. This information is derived from Grand Jury Indictment No. 02-0038-1.

JURISDICTION/LONG ARM STATUTE

25. Jurisdiction against the corporate defendants is based on the Massachusetts Long Arm Statute.

VENUE

26. Venue in this action properly lies in Worcester or the next judicial district contiguous to where either of the parties lives pursuant to G.L. c. 223 ss. 2.

FACTS

KAHR INC. AND ALL CORPORATE DEFENDANTS

27. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 26 of the Complaint into the statement of facts.
28. At all times material to this matter, the defendants, acting by and through Kahr Inc. and by and through their agents and employees, did manufacture and sell handguns under the brand name of Kahr Arms.
29. The defendants at all times material hereto were the sole manufacturers of the Kahr Arms line of handguns. Kahr Arms promotional literature displayed and distributed from the defendants' Internet web site describes these weapons as a patented line of compact, powerful and precision-engineered handguns. (Exhibit 4)
30. Kahr Arms' promotional literature describes the defendants' handguns under a headline banner of the motto: "ABSOLUTE CONCEALED POWER." (Exhibit 4)
31. Kahr Arms' promotional literature states that Kahr Inc. specializes in the manufacturing of .45 caliber, .40 caliber and 9mm handguns. (Exhibit 4)
32. The Chief Designer of Kahr Inc., Justin Moon (son of the Rev. Sun Myung Moon) is a principal of the company according to company promotional materials. (Exhibit 4)
33. The defendants' promotional literature boasts that Kahr Arms' weapons are the "the smallest, flattest, most reliable full power compact handguns made." (Exhibit 4)
34. The defendants' promotional literature states that Kahr Arms incorporates "professional technical expertise into all of its operations" and "unmatched combination of power and performance."
35. At all times material hereto the defendants, acting by and through Kahr Inc. and by and through their agents and employees, had sole and exclusive possession and control of certain premises in the city or Worcester, Worcester County, Massachusetts, where they manufactured the Kahr Arms line of handguns.
36. At all times material hereto the defendants, acting by and through Kahr Inc. and by and through their agents and employees, did keep the handgun components and machinery necessary for production and shipment of finished Kahr handguns at 184 Prescott Street, Worcester, MA and at 130 Goddard Memorial Drive, Worcester, MA and at no other place.
37. At all times material hereto the defendants, acting by and through Kahr Inc. and by and through their agents and employees, did manufacture their Kahr Arms line of handguns under license by the United States Bureau of Alcohol, Tobacco and Firearms (hereafter "the BATF").

SERIAL NUMBERS AND GUN LICENSES

38. The defendants' handgun manufacturing operation was, at all times material hereto, subject to various federal law and regulations the requirements of which include:
- stamping or casting of a unique serial number into the frame of each handgun produced;
 - transfer of each handgun produced only to a person duly licensed to possess that individual weapon;
 - positive measures to prevent and detect the unlawful transfer within handgun manufacturing facilities of handguns to persons not licensed to possess them
 - reporting the theft or the unexplained disappearance from inventory of any handgun to the BATF.
39. Typically, in Massachusetts, law enforcement authorities can trace the possession history of a legally owned handgun by means of the weapon's serial number and the owners' license records.
40. The possession history of a handgun becomes more difficult after the weapon is stolen or if it does not have the required serial number.
41. Thus, handguns not stamped with serial numbers have value to criminals because they do not implicate the registered owner when used in the commission of a crime.

RECOVERY OF STOLEN GUNS WITHOUT SERIAL NUMBERS TRACED TO KAHR ARMS

42. **Recovery of Firearm #1** – In early December, 1999, officers of the Worcester Police Department, conducted a traffic stop of Robert Jachimczyk in Worcester, MA, and searched the vehicle. The police recovered, from underneath the front seat, a Kahr Arms K-40 .40 caliber handgun with a full magazine of ammunition. There was no serial number engraved or cast on the weapon. The police also recovered what they believed to be a small quantity of marijuana from the car. During a search incident to the arrest of the driver of vehicle, the police recovered what they believed to be small quantities of crack cocaine and powder cocaine.
43. **Recovery of Firearm #2** - At the end of December, 1999, officers of the Worcester Police Department recovered a firearm from the yard of an apartment building in the vicinity of Main Street, in Worcester, MA. The firearm was found by a four-year-old child, who lived in the apartment building. The firearm had a round of ammunition in the chamber. The firearm was identified as a Kahr Arms 9mm handgun. There was no serial number engraved or cast on the weapon. See Memorandum of Probable Cause and Decision on Government's Motion for Detention, Criminal Action No. 00-1623-CBS, dated 3/23/00 and signed by The Honorable Charles B. Swartwood, III, Magistrate Judge. A Copy of that Memorandum is attached as Exhibit 5.

44. Both recovered firearms, submitted by the Worcester Police Department to the Massachusetts State Police Firearms Identification Section, test-fired with no malfunctions noted.
45. Detective James Heffernan, of the Worcester Police Department, has custody of both of recovered weapons in this case. Detective Heffernan told Special Agent Curran of the BATF that neither weapon has an engraved or cast serial number. Also, he told Special Agent Curran that the name "Kahr" is prominently displayed on the slide of each weapon.
46. On March 13, 2000, Special Agent Curran observed both firearms and noted that there was no serial number or any marking on the receiver of the firearms. Special Agent Curran could see the name "Kahr" prominently displayed on the slide of both firearms.

LACK OF THEFT PREVENTION MEASURES OR EMPLOYEE BACKGROUND CHECKS

47. Upon information and belief, at all times material hereto, the defendants:
 - did not conduct criminal background or general background checks on prospective employees and hired persons with criminal records;
 - did not test present or prospective employees for indications of drug addiction;
 - did not safeguard handguns and their components with metal detectors, x-ray machines, or other devices capable of detecting handguns or components secreted on persons or in their effects;
 - did not have a security guard to check employees upon the completion of their shift to prevent theft of handguns or handgun components;
 - did not keep clear and current inventory tracking records which would timely reveal unauthorized removal of weapons or weapons parts from the premises;
 - did not supervise its employees/did not have television security cameras; and
 - allowed individuals with criminal backgrounds and individuals addicted to illegal, controlled substances to work, manufacture, assemble and come in contact with handguns and handgun components
48. It is logical and foreseeable that a gun manufacturing plant not employing human or mechanical devices (e.g. X-ray machines, metal detector machines, hand held metal detectors), not checking employees upon the conclusion of their work shift to prevent theft, allowing unqualified employees to participate in the assembly of manufacturing firearms, is more likely to suffer gun/gun component theft. It is equally foreseeable that stolen weapons from a Federal Firearms Licensee could end up being used in the commission of crimes.
49. It is foreseeable that handguns lacking a serial number or handgun components not yet stamped with a serial number will be used in future crimes.

CARELESS INVENTORY TRACKING AT KAHR ARMS

50. On or about February 8, 1999, ATF Special Agent Michael P. Curran responded to Kahr Arms at 184 Prescott St. in Worcester, MA on a report of 10 lost firearms from a UPS shipment originating from Kahr Arms. The weapons shipped on December 17, 1998, did not arrive at the intended destination. Five of the missing weapons were 9mm. and five were .40 cal. Discussions between Special Agent Curran and Kahr Arms representatives revealed that in the year prior to February 8, 1999, there had been 15 or 16 shipments of firearms that never reached their intended destination.
51. From February of 1998 to February of 1999, approximately 16 shipments of handguns from Kahr Arms to legal buyers failed to arrive at their points of destination and there has been no accounting for the weapons lost.
52. In December 1998, Kahr reported to the United States Bureau of Alcohol, Tobacco and Firearms (BATF) that 10 handguns, which Kahr Arms had shipped from Worcester, MA did not reach their destination.
53. According to one April 2, 2000, news article from the Worcester Sunday Telegram, "as many as 17 Kahr shipments may not have reached their destinations." In another article, dated April 29, 2000, Worcester Police Detective Capt. Paul F. Campbell said that, "going back to 1998, as many as 50 weapons manufactured at the plant may be missing. I'm just trying to find out how many are missing and what happened to them." In the same article, Shaun Sutner a Telegram & Gazette reported wrote about a reporter who "was able to proceed through the public entrance one recent afternoon without being greeted by a security guard or passing through a metal detector. The reporter signed the guest book, then waited unaccompanied for several minutes before a manager told him to leave the premises". In another instance, Kahr shipped a 'Tommy gun' that never arrived. Worcester Telegram & Gazette, May 11, 2000.
54. Prior to April 1, 2000, Kahr did not use inventory-tracking records, which would timely reveal unauthorized removal/loss of weapons or weapons parts from its premises.
55. On March 16, 2000, inspectors of the Federal Bureau of Alcohol, Tobacco and Firearms reviewed records of the Kahr Arms plant at 130 Goddard Memorial Drive, Worcester, Massachusetts. The records indicated that the 9mm. handgun bearing serial number GC0913 was theoretically still in Kahr's secured weapons inventory, though it had already been stolen by Scott Anderson.
56. On March 16, 2000, the Worcester Police Department confirmed security problems at the Kahr Arms facility had been discovered and Kahr had been ordered by WPD to take corrective action. Among the shortcomings the department identified were unsecured storage of handgun components, and inadequate tracking of handgun components.

57. On or about April 1, 2000, Captain Paul F. Campbell of the Worcester Police Department who was responsible for overseeing corrections to Kahr Arms security system stated that the department had found record keeping at the Kahr Arms plant at 130 Goddard Memorial Drive to be so "shoddy" that it was possible to remove handguns from inventory without detection. At all times material weapons were stolen because of Kahr's shoddy inventory system that allowed criminals to steal weapons without detection.
58. The Violent Crime Control and Law Enforcement Act of 1994 included a requirement for Federal Firearm Licensees to report theft or loss of firearms from their inventory or collection to the ATF and local law enforcement within forty-eight (48) hours after discovery. However, not until April 7, 2000, and April 8, 2000, did Kahr Inc.'s Randall Cassidy report to the Worcester Police Department and to the Bureau of Alcohol, Tobacco & Firearms that forty-one (41) handguns manufactured years earlier with serial numbers were missing from the inventory of the Kahr Arms plant at 130 Goddard Memorial Drive, Worcester, Massachusetts. These include but are not limited to: three 9mm handguns made between 10/3/95 and 12/19/95; nine 9mm handguns and one .40 cal. made between 1/17/97 and 8/21/97; one 9mm made in 1998, three 9mm made between 1/20/99 and 9/23/99 and one .40 cal made on 7/19/99. (Exhibit 6).
59. At all times material to this matter, the defendants' inventory tracking system at the Kahr Arms plant in Worcester did not reveal the unauthorized removal of weapons or weapon components from the inventory. In particular, the inventory system did not safeguard against illicit removal of weapons before identification numbers were engraved or cast into them as required by law before such firearms can be released into the stream of commerce.

MARK CRONIN

60. On or about March of 1999, the defendants, acting by and through Kahr, Inc., did hire one Mark M. Cronin to work at the Kahr Arms manufacturing facility in Worcester.
61. Public Court records revealed that Mr. Cronin had previously been arrested on various charges and had an extensive criminal background:
 - Probate and Family Court records indicate that as early as December, 1995, Mr. Cronin was addicted to cocaine and was habitually stealing money to support his cocaine habit.
 - In addition, in the Complaint for Divorce filed on or about July 2, 1996, Stephanie Cronin alleges, among other things, that "On or about December, 1995, the defendant (Mark Cronin) had a serious addiction to (crack)."
 - Assault and battery in March of 1998, in Worcester. The case was continued without a finding, on condition that Mr. Cronin undergo assessment and counseling for alcohol abuse.
 - Domestic assault and battery in November of 1997 in Worcester. The case was continued without a finding after the defendant admitted to facts sufficient to prove the charge, on condition that he seek counseling for anger management.
 - In 1998, an operating under the influence charge was continued without a finding (1 year probation, 24D Program)
 - Also in 1998 Cronin filed a guilty plea to operating vehicle after suspension of license.
 - Also in 1998 a charge of giving a false name to a police officer was dismissed.

- On July 29, 1999 Stephanie Cronin filed a complaint in the Worcester Division of the Commonwealth of Massachusetts, Probate and Family Court, against Mark Cronin, Defendant. The complaint alleges, among other things, that Mark Cronin violated a previous order of support by "not reporting new 2nd job as well as overtime at current position at Saeilo on Prescott St. in Worcester."
- 62. These records of prior arrests were public records that were readily available to the agents, servants and employees of the defendants to determine whether Mr. Cronin was suitable for employment at their handgun manufacturing facility and to determine whether, under federal law, his criminal record disqualified him from such employment. Section 922 of the Gun Control Act of 1968, Public Law 90-618, Title 18, U.S. Code (which would have been in effect in 1999), makes it unlawful for any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year or been convicted in any court of a misdemeanor crime of domestic violence, to ship, transport or possess any firearm or ammunition or to receive any firearm or ammunition. Clearly, the policy behind this law is to prevent criminals like Mr. Cronin from handling handguns. A simple record review would have revealed that Mr. Cronin should not be working in a gun manufacturing facility.

A COOPERATING WITNESS (JACHIMCZYK) LEADS INVESTIGATORS TO KAHR EMPLOYEE, MARK CRONIN

- 63. On or about December 2, 1999, the Worcester Police Department recovered a loaded Kahr Arms .40 caliber handgun with no serial number from a motor vehicle in the possession of one Robert Jachimczyk.
- 64. According to Docket 9962CR012118, on or about December 2, 1999, before Judge Elliott L. Zide, Robert W. Jachimczyk was charged with the following offenses: 1) Possession of Cocaine; 2) Possession of Marijuana; 3) possession of a Kahr .40 cal. handgun with one full magazine without a Firearm ID; 4) operating a motor vehicle with a suspended license; 5) Failed to use care, in violation of C9 18 of the City or town of Worcester. An additional count for 269/10/J Firearm, Carry without a license c 269 Section 10 was dismissed upon the Commissioner's request.
- 65. In or about December, 1999, ATF Special Agent Curran was contacted by the Worcester Police Department, in relation to the recovered firearms and had an opportunity to interview a Cooperating Witness (Jachimczyk).
- 66. On or about December 29, 1999, Jachimczyk provided Special Agent Curran with the following information in relation to firearms. On evening of December 1, 1999, Jachimczyk exchanged two "half grams" of cocaine, valued at approximately \$80, for a firearm which was provided to Jachimczyk by Mark Cronin (hereinafter Cronin). Jachimczyk has known Cronin for several years.

67. Jachimczyk reported that shortly after obtaining the firearm from Cronin, the weapon was seized by the Worcester Police Department in the course of a traffic stop. Jachimczyk went on to provide additional information about an earlier transaction involving Cronin in which Cronin provided a seven shot 9mm firearm to Jachimczyk in exchange for approximately \$80 worth of cocaine. This weapon, as well, did not have a serial number. This exchange took place a few months earlier than the December, 1999 exchange. Jachimczyk traded the 9mm to a third-party, in exchange for two bundles of 'dope' [heroin].
68. On or about March 3, 2000, Jachimczyk provided Special Agent Curran with the following information. Specifically, in November 1999, Cronin approached Jachimczyk at the Green Island Pub in Worcester, MA, and asked Jachimczyk if he would like to buy a firearm. Cronin told Jachimczyk he worked at a local firearm manufacturer. Cronin told Jachimczyk that he had taken the firearm out of the company, that he “does it all the time, and that [he] can just walk out with them.” Cronin told Jachimczyk that the firearm he had for sale does not have a serial number because it bypassed the serial number stamping process at the factory. Cronin told Jachimczyk that the firearm was a 9mm caliber. Cronin told Jachimczyk that he knew the firearm functioned because he test-fired it at work. Jachimczyk and Cronin went to a Worcester residence where Jachimczyk was staying, and made the exchange.
69. Jachimczyk provided Cronin with 2 'half grams' of powder cocaine in exchange for the 9mm Kahr Arms firearm. After the exchange, Cronin drove Jachimczyk to a third-party's house, at which point Jachimczyk went into an apartment where he traded the firearm to a third-party for 2 bundles of heroin. Cronin stayed in the car during this transaction. Following the exchange, Jachimczyk returned to the car operated by Cronin.
70. Again, in connection with the proffer agreement, Jachimczyk provided information in relation to a second transaction with Cronin. On December 1, 1999, Cronin came into the Green Island Pub and asked Jachimczyk if he wanted to purchase another firearm. Cronin stated that it was a bigger firearm, a .40 caliber, and it was his personal gun. Jachimczyk and Cronin agreed to trade two 'half grams' of cocaine for the firearm. Cronin left the bar and returned shortly thereafter with the firearm. Cronin stated that he had to go home and get the firearm.
71. Cronin returned to the bar a short while later and showed Jachimczyk the firearm. Jachimczyk and Cronin left the bar and left in the car operated by Jachimczyk. A short distance from the bar, Cronin removed a safety lock from the weapon and gave the firearm to Jachimczyk, who placed it under the front seat of the car. Jachimczyk gave Cronin 2 'half-grams' of powder cocaine, as well as a crack cocaine rock, in exchange for the firearm. Following the exchange, Jachimczyk and Cronin drove back to the bar. Cronin went inside the bar, leaving Jachimczyk outside in the car.
72. Shortly thereafter, the Worcester Police Department stopped the car operated by Jachimczyk and recovered a firearm from underneath the front seat. Jachimczyk was provided with a photocopy of a photograph of Cronin and identified the person depicted as Mark Cronin.

73. Jachimczyk has a criminal record. In addition to the offenses described above, in 1995, Jachimczyk was arrested for possession of marijuana and operating under the influence of liquor. Both charges were dismissed. Jachimczyk has history of drug use, including the use of heroin, cocaine, crack, and marijuana. In addition, Jachimczyk has distributed controlled substances and supplied various customers in the past.
74. Law enforcement agents provided Jachimczyk with a hidden recording device, which enabled law enforcement agents to monitor and record conversations between Jachimczyk and others. On March 8, 2000, at the direction of law enforcement, Jachimczyk went to Cronin's apartment and engaged Cronin in a conversation in relation to the firearms, which Cronin provided to Jachimczyk. Jachimczyk told Cronin that Jachimczyk and Jachimczyk's friend had been subpoenaed to provide information in relation to the origin of the firearms. Among other things, Cronin encouraged Jachimczyk to falsely tell authorities that Jachimczyk obtained "the gun off some guy off the street."
75. Cronin admitted in the tape recording that he provided Jachimczyk with the guns: "[G]ranted, I shouldn't have got you the gun, but second of all it's not like the minute you asked me you got it. It was a couple of months in between from that second from that next gun." Also, during the conversation, Cronin removed from a nearby bureau a loaded magazine and demonstrated that a magazine holds six rounds of ammunition.
76. Because of his cooperation in convicting Cronin, on October 30, 2000, Jachimczyk received the following sentences for his crimes:
- Drug possession class B: guilty plea, sentenced to pre trial probation consisting of 6 months in House of Corrections, 12 days to serve, balance suspended until 10/23/02
- Class D: guilty plea, sentenced to pre trial probation consisting of 6 months in House of Corrections, 12 days to serve, balance suspended until 10/23/02
- Carrying firearm without a license c. 269 Section 10 (which carries a mandatory jail term of a year in House of Correction for a first offense): dismissed upon request of Commonwealth
- Carrying firearm without a federal ID card Section 10(G): guilty plea – 6 mo. House of Correction, 12 days to be served, credit time served/ balance suspended and 2 years probation
- Ultimately, in violation of his probationary terms, Jachimczyk was reprobated on June 13, 2001.
77. On or about March 16, 2000, Mark Cronin was arrested on charges of stealing handguns from the Kahr Arms plant at 130 Goddard Memorial Drive, Worcester. He later pleaded guilty and was convicted.
78. In summary, in mid-October of 1999, Mark Cronin did in the course of his employment at the defendants' Worcester plant, obtain a Kahr Arms 9 millimeter handgun with no identification numbers cast or engraved into the body of the gun.

79. Mr. Cronin obtained the 9mm in violation of federal and state law and as a direct and proximate result of defendants' failure to have such reasonable measures in place for the prevention, deterrence, or detection of handgun theft as are prevalent throughout the handgun manufacturing industry in Massachusetts and the United States - metal detectors, X-ray scanners, effective inventory tracking, etc. In addition, defendant Kahr Arms failed to adequately supervise or monitor him.
80. By his own admissions and as shown by other evidence in the federal district court, Mr. Cronin removed the 9mm handgun from the Kahr Arms facility in Worcester with the intent of exchanging it for crack cocaine.
81. In October or November of 1999, Mr. Cronin introduced the 9 millimeter handgun into the stream of commerce, selling the stolen gun to Robert Jachimczyk, in exchange for one gram of cocaine - Mr. Jachimczyk in turn traded this firearm to a third party, defendant Edwin Novas in exchange for heroin with deadly consequences. The identity of this third party is unknown to the plaintiff but upon information and belief the party was Edwin Novas, a Dominican national, who is a fugitive from justice. Mr. Novas had had numerous encounters with the criminal justice system in the Commonwealth of Massachusetts months before December 24, 1999.

DANNY GUZMAN IS KILLED WITH A STOLEN KAHR ARMS HANDGUN

82. On December 24, 1999, at approximately 1:54 a.m., Danny Guzman, an innocent bystander, was shot in the 800 block of Main Street in Worcester in front of the Tropicana nightclub with the 9 mm handgun defendant Cronin had easily stolen from his employer, defendant Kahr Inc. Tragically, Danny Guzman was pronounced dead at St. Vincent's Hospital in Worcester, Massachusetts at approximately 0212 of a single gunshot wound to the chest which created two (2) holes in his heart – one entrance, one exit. The attending physicians listed the mechanism of injury as a “? 9 mm bullet”.
83. At the time of this senseless and preventable homicide, Kahr Arms manufactured 13 different types of 9 mm handguns.
84. On or about December 30, 1999, the Worcester Police Department recovered a loaded Kahr Arms 9 millimeter handgun (similar to the 7 round magazine K9 model) with no serial number in a lot on Benefit Street in Worcester, near the place where Mr. Guzman was shot. The gun was found by a four year-old child. Ballistics tests determined that this very Kahr handgun fired the shot that struck and killed Danny Guzman. A photo of a K9 model 9 mm is attached as Exhibit 7.

85. On March 23, 2000, the Honorable Charles B. Swartwood, III, found in his Memorandum of Probable Cause and Decision of Government's Motion For Detention and Findings of Fact at paragraphs 1,2,3,4 and 5 that the 9mm firearm used in the homicide of Danny Guzman was the Kahr Arms 9mm provided by Cronin. Specifically at paragraph 2, Judge Swartwood, III writes, "In late December 1999, a four year old child found a loaded 9 mm Kahr firearm in the yard of an apartment building in the vicinity of Main Street, Worcester, MA. This weapon was traced to a homicide outside the Tropicala (sic) Night Club located in the Main South area of Worcester." Exhibit 5 at p. 2.
86. As late as September 2000, the WPD continued with its active investigation into handguns lost or stolen from Kahr Arms at 130 Goddard Memorial Drive, Worcester, Massachusetts.

SCOTT ANDERSON- ANOTHER KAHR EMPLOYEE PLEADS GUILTY TO STEALING GUNS FROM KAHR

87. On or about March of 1999, the defendants, acting by and through Kahr, Inc., did hire one Scott R. Anderson to work at the Kahr Arms manufacturing facility in Worcester.
88. On March 16, 2000, ATF Agents and Worcester Police Department officers, in connection with an investigation regarding firearm thefts from Kahr Arms, interviewed Scott Anderson, a Kahr Arms employee.
89. ATF Special Agent Thomas Lyster and Worcester Police Department Captain Paul Campbell interviewed Anderson in a conference room at Kahr Arms. Special Agent Lyster advised Anderson that he was implicated in the theft of firearms at Kahr Arms, and he told Anderson that he was not under arrest.
90. Anderson admitted stealing a Kahr Arms handgun approximately four or five months before the interview (March 16, 2000). Anderson said that the handgun was in a box in his bedroom closet. Anderson admitted that he stole a slide for another Kahr Arms handgun that he had legally purchased. Anderson provided a written statement to law enforcement and admitted taking the Kahr Arms handgun and slide from his place of employment, Kahr Arms.
91. Following the interview, ATF Agents accompanied Anderson to his residence. Anderson gave verbal consent and also signed a form authorizing ATF Agents to enter and search his apartment. After signing the agreement, Anderson brought ATF Agents Thomas Lyster and Seref McDowell into his apartment. Anderson retrieved a Kahr Arms semi-automatic handgun, model MK9 9mm, serial number GC0913, and an additional slide for a Kahr Arms model K9 handgun that was unlawfully taken from Kahr Arms. Anderson turned over firearm and additional slide to Special Agent Lyster.
92. On March 16, 2000, special agents of the Federal Bureau of Alcohol, Tobacco and Firearms interviewed Scott Anderson. Anderson confessed that he had stolen a 9mm. Kahr Arms handgun and a major handgun component from the Kahr Arms plant. The BATF agents recovered such a weapon, bearing serial number GC0913, from Mr. Anderson's home.

93. On April 27, 2000, Scott Anderson was charged in the U. S. Massachusetts District Court, with stealing a 9mm handgun from the Kahr Arms plant at 130 Goddard Memorial Drive, Worcester, Massachusetts. Anderson pleaded guilty. On March 20, 2001, he was sentenced to nine months home detention as part of a three-year probation for stealing the firearm.

COUNT I – KAHR INC., D/B/A, KAHR ARMS, INC. or KAHR AUTO ORDNANCE
GROSS NEGLIGENCE/ NEGLIGENT HIRING AND SUPERVISION/
RESPONDEAT SUPERIOR/WRONGFUL DEATH, G.L. c.229, Section 2

94. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 93.
95. As a result of Kahr Inc.'s wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
96. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.
97. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT II – SAEILO, INC.
GROSS NEGLIGENCE/ NEGLIGENT HIRING AND SUPERVISION/
RESPONDEAT SUPERIOR/WRONGFUL DEATH, G.L. c.229, Section 2

98. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 97.
99. As a result of Saeilo, Inc.'s wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.

100. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.
101. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT III – SAEILO MACHINERY MA, INC.
WRONGFUL DEATH, G.L. c.229, Section 2

102. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 101.
103. As a result of Saeilo Machinery MA, Inc.'s wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
104. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.
105. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT IV - SAEILO MACHINERY USA, INC.
WRONGFUL DEATH, G.L. c.229, Section 2

106. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 105.

107. As a result of Saeilo Machinery USA, Inc.'s wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
108. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.
109. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT V - SAEILO MANUFACTURING INDUSTRIES
WRONGFUL DEATH, G.L. c.229, Section 2

110. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 109
111. As a result of Saeilo Manufacturing Industries' wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
112. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.

113. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT VI - MACHINE INDUSTRIES, INC.
WRONGFUL DEATH, G.L. c.229, Section 2

114. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 113
115. As a result of Machine Industries, Inc.'s wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
116. As a direct and proximate result, an unlicensed, serial number-less 9 mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.
117. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT VII - SAEILO EQUITY HOLDINGS, LLP
WRONGFUL DEATH, G.L. c.229, Section 2

118. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 117

119. As a result of Saeilo Equity Holdings, LLP's wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
120. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.
121. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT VIII - ONE UP ENTERPRISES, INC.
WRONGFUL DEATH, G.L. c.229, Section 2

122. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 121.
123. As a result of One Up Enterprises, Inc.'s wanton, reckless, and grossly negligent conduct, including, but not limited to, failing to implement reasonable safeguards to prevent theft of guns and gun components, ignoring industry standards for preventing theft of guns and gun components, ignoring industry standards for inventory control, failing to conduct rudimentary background checks and failing to supervise employees, and failing to report stolen firearms, Kahr Inc. employees were able to remove untraceable handguns and components from defendants' facilities in Worcester, MA undetected, and place them in the stream of commerce.
124. As a direct and proximate result, an unlicensed, serial number-less 9mm Kahr Arms handgun was introduced into the stream of commerce by a Kahr Inc. employee, and was instrumental in the death of Daniel Guzman or Daniel Nicacio.

125. As a direct and proximate result, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT IX – EDWIN NOVAS
NEGLIGENCE/HOMICIDE/WRONGFUL DEATH
GEN. LAWS c.229, Section 2

126. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 125.
127. As a direct and proximate result of the carelessness and negligence of Edwin Novas, who negligently or intentionally discharged a Kahr 9mm handgun, Daniel Guzman suffered grievous injury and eventual death, and the daughters of Daniel Guzman, and Juana Hernandez, individually, have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT X – MARK CRONIN
NEGLIGENCE/WRONGFUL DEATH
GEN. LAWS c.229, Section 2

128. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 127.
129. As a direct and proximate result of the carelessness and negligence of Mark Cronin, who negligently intentionally placed a Kahr 9mm handgun into the stream of commerce, when it was likely and foreseeable that it would be used in a crime, Daniel Guzman suffered grievous injury and eventual death, and the daughters of Daniel Guzman, and Juana Hernandez, individually, have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT XI – ROBERT JACHIMCZYK
NEGLIGENCE/WRONGFUL DEATH
GEN. LAWS c.229, Section 2

130. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 129.
131. As a direct and proximate result of the carelessness and negligence of Robert Jachimczyk, who negligently intentionally placed a Kahr 9mm handgun into the stream of commerce, when it was likely and foreseeable that it would be used in a crime, Daniel Guzman suffered grievous injury and eventual death, and the daughters of Daniel Guzman, and Juana Hernandez, individually, have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death, and the estate is entitled to compensation for decedent's pain, suffering and awareness of impending death, medical and burial expenses, loss of net income, services, protection, care, assistance, society, companionship, comfort, guidance and counsel sustained by decedent's next of kin and for the plaintiff's shock, emotional pain and suffering such as caused physical injury and disability, and for punitive damages commensurate with said reckless and wanton conduct.

COUNT XII – ALL DEFENDANTS
JOINT AND SEVERAL LIABILITY

132. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 131 into this count.
133. As direct result of the joint negligence of the defendants in this action, Daniel Guzman, the estate of Daniel Guzman, the daughters of Daniel Guzman, and Juana Hernandez have suffered damages, including damages separate from Daniel Guzman's pain and suffering and eventual death.

COUNT XIII - KAHR INC., D/B/A, KAHR ARMS, INC. or KAHR AUTO ORDNANCE and
SAEILO, INC.
PUBLIC NUISANCE

134. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 133 into this count.
135. Kahr Arms' utter lack of security and lax practices have caused injury to the public, and specific injury to decedent Daniel Guzman and the plaintiffs by providing the criminal market with difficult-to-trace guns, knowing stolen guns would likely be used in the commission of crimes.
136. Kahr Arms' behavior constitutes an unreasonable interference with a public right, because the aforementioned conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort, the public convenience, and the safety of the plaintiff and thus by definition amounts to a public nuisance.

COUNT XIV – KAHR INC., D/B/A, KAHR ARMS, INC. or KAHR AUTO ORDNANCE and
SAEILO, INC.
PRIVATE NUISANCE

137. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 136 into this count.
138. Kahr Arms has used its land in such a way that it unreasonably interferes with the safety of persons on property in the surrounding area, and causing specific injury to the decedent Daniel Guzman and the plaintiffs by making guns increasingly available to local criminals, and in fact one weapon was eventually found in a yard by an infant child, and such behavior constitutes a private nuisance.

COUNT XV – ALL CORPORATE DEFENDANTS
PUBLIC NUISANCE

139. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 138 into this count.
140. The corporate defendants' utter lack of security and lax practices have caused injury to the public, and specific injury to decedent Daniel Guzman and the plaintiffs by providing the criminal market with difficult-to-trace guns, knowing stolen guns would likely be used in the commission of crimes.
141. This behavior constitutes an unreasonable interference with a public right, because the aforementioned conduct involves a significant interference with the public health, the public safety, the public peace, the public comfort, the public convenience, and the safety of the plaintiff and thus by definition amounts to a public nuisance.

COUNT XVI – ALL CORPORATE DEFENDANTS
PRIVATE NUISANCE

142. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 141 into this count.
143. The corporate defendants used their land in such a way that it unreasonably interferes with the safety of persons on property in the surrounding area, and causing specific injury to the decedent Daniel Guzman and the plaintiffs by making guns increasingly available to local criminals, and in fact one weapon was eventually found in a yard by an infant child, and such behavior constitutes a private nuisance.

DEMANDS FOR RELIEF

The Plaintiffs hereby respectfully request the following relief:

1. All compensatory damages recoverable;
2. All punitive damages recoverable (in an amount no less than five thousand dollars pursuant to the tenets of as provided in M.G.L. c. 229 § 2);
3. Compensation for the loss of the reasonably expected net income, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the decedent;
4. The reasonable funeral and burial expenses of the decedent as provided in M.G.L. c. 229 § 2;
5. All attorney's fees, costs and expenses allowable; and
6. Any and all other relief as the Court deems just and proper.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL COUNTS RAISED IN THE COMPLAINT.

Respectfully submitted,
Plaintiffs' Co-counsel,

Hector E. Pineiro, Esquire, BBO # 555315
Robert H. Beadel, Esquire, BBO # 632447
Robin A. Scott, Esquire, BBO #648740
800 Main Street
Worcester, MA 01610
Tel. (508) 770-0600

Respectfully submitted,
Plaintiffs' Co-counsel,
Pending their admission Pro Hac Vice,

Dennis Henigan, Esquire, Director, Legal Action Project
Brian J. Siebel, Esquire
Daniel R. Vice, Esquire
Brady Center To Prevent Gun Violence
1250 Eye St., N.W., Suite 802
Washington, D.C. 20005
Tel. (202) 289-7319