

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

Broadstone Security, LLC,
trading as NOVA Armory, Plaintiff

At Law

N^o CL16001861-00

Civil Division

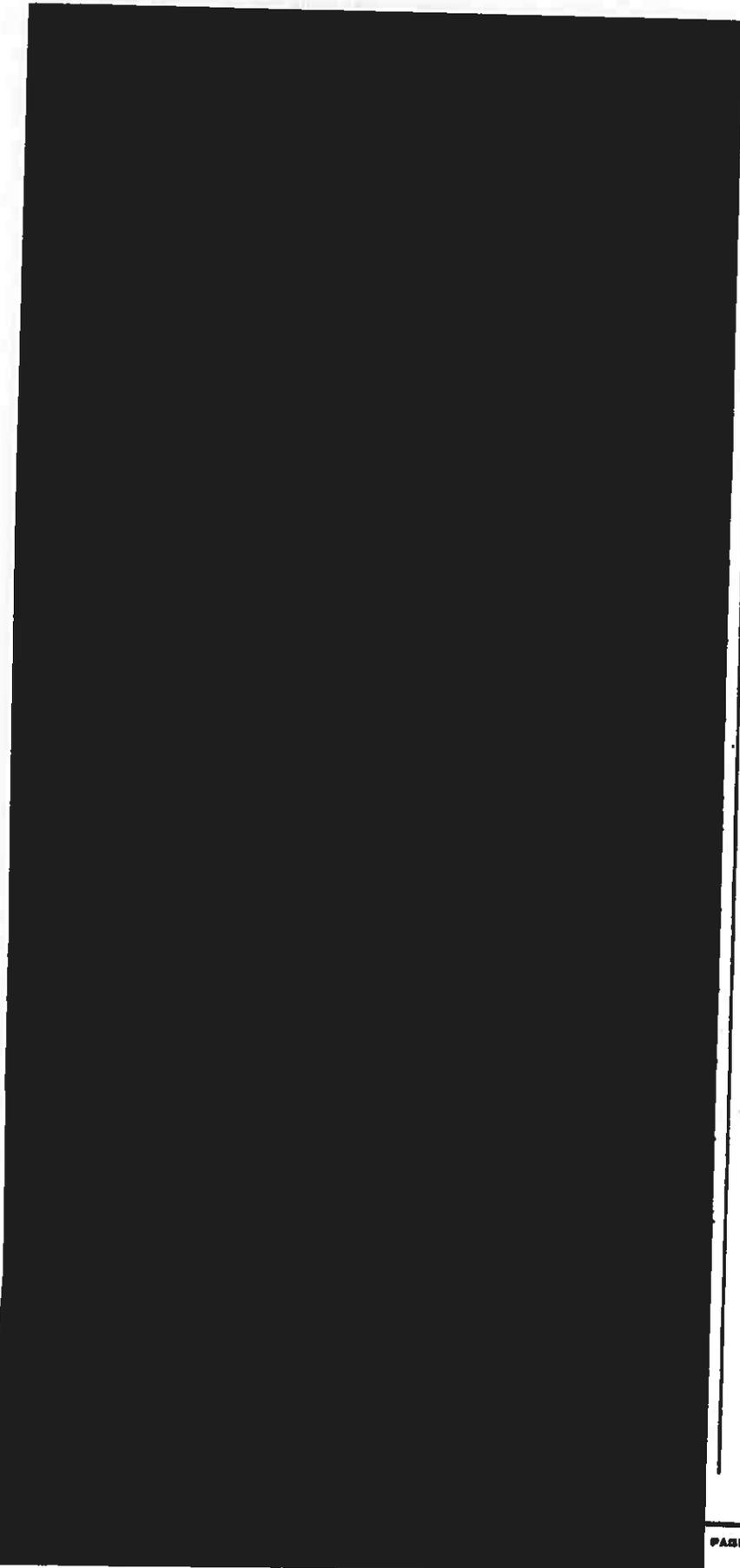
* Service of process is not requested at this time for defendants with asterisks. Some or all of these defendants marked with asterisks will be asked to waive service pursuant to Va. Code § 8.01-286.1 and Va. Sup. Ct. Rule 3:4

(some location information remains unavailable as of the time of filing but will be supplied as discovered).

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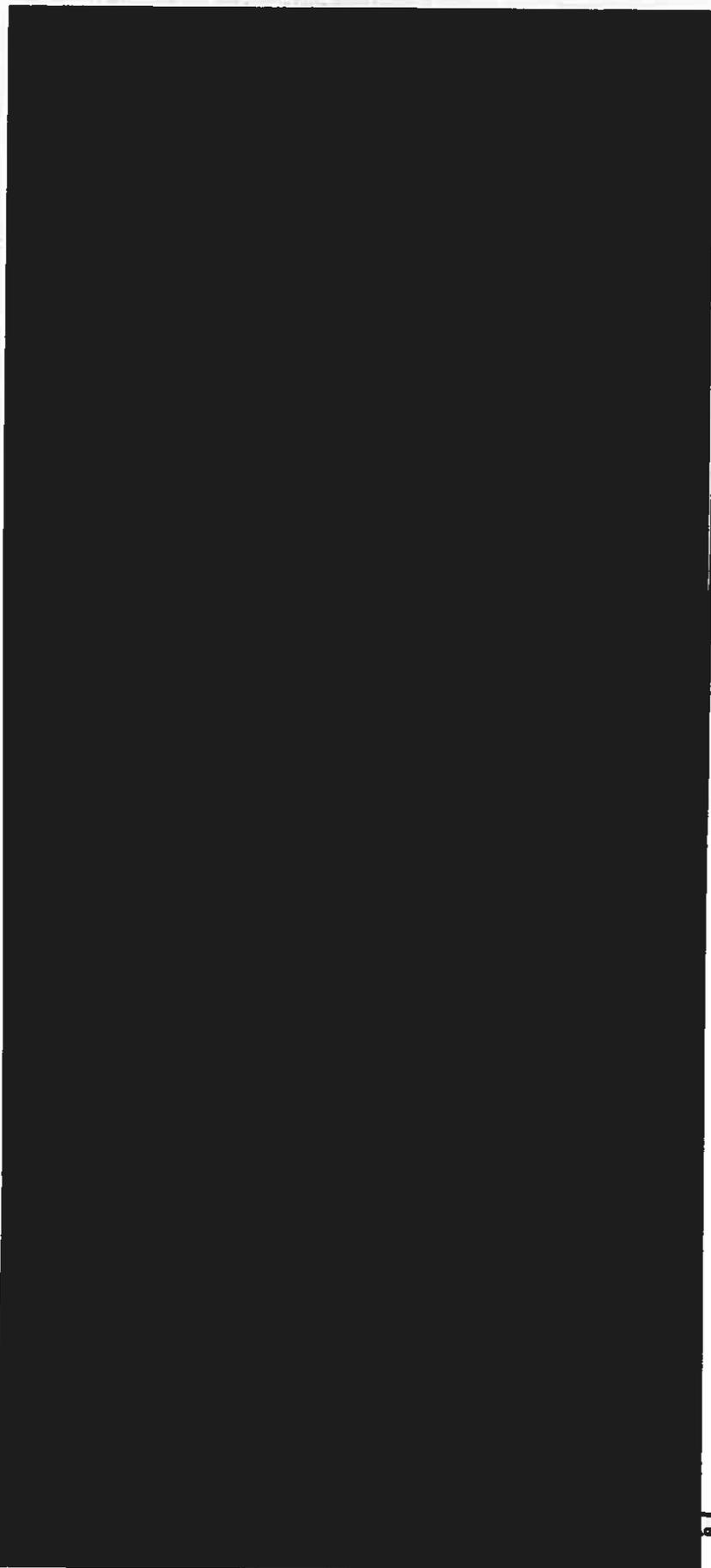


BROADSTONE SECURITY, LLC v. DOE ET AL.

CITY OF RICHMOND CIRCUIT COURT

AT LAW - JURY TRIAL DEMANDED

COMPLAINT



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FIRST AMENDED COMPLAINT

COMES NOW THE PLAINTIFF, BROADSTONE SECURITY, LLC, TRADING AS NOVA ARMORY, by counsel, and moves this Court for entry of an order of judgment against each of the defendants, and all of them, jointly and severally, as prayed herein:

1. The unnamed defendants, and those against whom Plaintiff proceeds under pseudonyms will be added by appropriate motions to correct the style of the case as the information about their identity and location become available.
2. Plaintiff Broadstone Security, LLC, is, and was at all times material hereto, a limited liability company chartered in the Commonwealth of Virginia, and has properly registered the fictitious trade name, "NOVA Armory" in connection with its business located at Suite "2B", 2300 Pershing Drive, Arlington, Virginia 22201-1428.
3. The exhibit comprises a letter which was transmitted to Plaintiff's landlord and others; that exhibit is a true and correct copy of the substance of the said letter.
4. The exhibit purports to have been executed and transmitted from offices of the undersigned officials located in the City of Richmond.
5. These officials are all named as defendants, as the execution and transmission of that letter comprised tortious acts, underlying, among other tortious acts, the cause of action pled herein, and thus venue is appropriate in this Court.
6. As one or more of the tortious acts comprising the cause of action complained of herein occurred within the City of Richmond, venue is appropriate in this Court.
7. Inasmuch as some of the defendants (Patrick A. Hope, Barbara A. Favola, Alfonso H. Lopez, Janet D. Howell, Richard C. Sullivan, Jr., Adam Ebbin, and Mark H. Levine) are officers of the Commonwealth, sued in their official capacity as well as personally, have their principal offices within the City of Richmond, venue is appropriate in this Court.
8. Defendants in this action communicated among themselves for the purpose of destroying Plaintiff's business.
9. The legislators named as defendants signed the letter, attached as an exhibit, in furtherance of that malicious purpose and for no good reason.
10. The Defendants used social media to communicate and to post messages to each other and to the public of a defamatory nature intended to smear Plaintiff and destroy its business.
11. The Defendants' intentional, willful, and malicious acts in furtherance of their conspiracy to injure Plaintiff's business and reputation caused a great deal of difficulty with the result that Plaintiff's staff members were required to expend time in merely attempting to survive the

- crisis, in meetings with the landlord, with logistical problems, with dealing with harassing telephone calls and electronic mail, and in heightened security concerns.
12. Death threats were made by mail to a sixteen year-old girl, herself Plaintiff's employee and the daughter of Plaintiff's business manager.
13. The Plaintiff's employees' personal telephones were made the instruments of attack, and private home addresses made public through newspaper distribution.
14. Plaintiff's employees grew fearful and apprehensive due to the violent and vitriolic nature of the defendants' threats and rhetoric. As one of the defendants recently stated:
- "...The opposition is united and overwhelming. The voice of the community is clear. We are against it; it is an assault on our character and values; we will fight it until it goes away."**
15. The defendants' conduct has caused actual damages in the form of both special and general damages, estimated as nearly as possible to comprise the following:
- a. \$69,041.14 in lost revenue;
 - b. \$1,000,000.00 or such amount as may be proved at trial representing the present value of the diminution of the future income stream over time;
 - c. \$5,000.00 physical and personal protection expenses;
 - d. \$24,300.00 in lost opportunity costs due to the inability to attend to other profitable activities;
 - e. \$100.00 Phone number change due to harassment and stalking behavior by the defendants;
 - f. \$3,000.00 time lost related to employee having to effect phone number change and related costs; and
 - g. \$1,000,000.00 in general damages by reason of the injury done to the business' good will and reputation.
16. The object of the conspiracy was an attempt to interfere in the economic relations of the Plaintiff such that the Plaintiff's landlord would breach its lease agreement with the Plaintiff and otherwise bring social, political, and economic pressure to bear upon Plaintiff and Plaintiff's business in order to unlawfully force Plaintiff's business to shut down.
17. The object of the conspiracy was to put Plaintiff out of business at the Arlington County location by the use of unlawful means.
18. Each of these defendants was, or had been, in communication with one or more other of the defendants named and unnamed, with regard to the object of the conspiracy.

19. At least one overt act was taken by at least one member of the conspiracy in furtherance of the object of the conspiracy, including the issuance, execution, and transmission of the letter attached as an exhibit.
20. Each of the defendants, named and unnamed, was acting as an agent for each of the others in the course their common pursuit of the object of their conspiracy to destroy Plaintiff's business, and each is liable for the acts committed by each of the others by reason of that agency, whether or not any of them approved or even knew about the acts committed.
21. The defendants have characterized themselves as "protesters", though nothing they have done in connection with their attempt to destroy Plaintiff's business was done in the attempt to petition the government for redress of grievances. Instead, they have merely been disruptors, attempting to destroy Plaintiff's business and reputation, stalking the store with signs, parking cars covered with documents referring to horrible deaths, attempting to coerce and intimidate tenants of the same facility, etc.
22. Each of the defendants that signed the letter attached as an exhibit (Patrick A. Hope, Barbara A. Favola, Alfonso H. Lopez, Janet D. Howell, Richard C. Sullivan, Jr., Adam Ebbin, and Mark H. Levine) is an elected public official.
23. The letter is on official stationery and issued under the seal of the Commonwealth of Virginia.
24. Issuance, execution, and transmission of the letter were official acts made by the defendant signatories thereto, made under color of their respective offices, on behalf of themselves and the other Defendants.
25. Each of the signatories thereto is a legislative officer with no authority to act in an official capacity to interfere in the relationship between the Plaintiff and its landlord or other members of the local business community.
26. Since the lease agreement had already been executed at the time the offensive letter had been received, no legislative act could have lawfully "impaired the obligation" of that contract.
27. Issuance, execution, and transmission of that letter constituted an attempt to interfere with ongoing economic relations between the Plaintiff and its landlord by threats and intimidation, and constituted an abuse of official authority.
28. The letter was defamatory in that it asserted that the Plaintiff had opened its business in order to conduct criminal activities, namely conveyance of firearms to persons ineligible to be in possession thereof and to facilitate violent crime.
29. The signatories to the letter were and had been in communication with other members of the conspiracy, and the issuance and transmission of the letter were acts taken in furtherance of the objects and purposes thereof.
30. The transmission of the letter attached as the Exhibit was an affirmatively wrongful act.
31. The exact language sued upon is contained in the Exhibit, which is incorporated herein as though fully set forth *in haec verba*.
32. In particular, the letter refers to a statement of fact, in that it recites that its purpose is to inform the landlord of "we want to make you are aware [sic] of the potentially unintended

COMPLAINT

consequences a firearms retailer **will have** in this particular location.", incorporating the previous recitations including the suggestion that the Plaintiff is responsible for Virginia's having a reputation for being a "gun-running capital", and participation in "illegal and nefarious" activities including support for a "black" market in illegal drugs (emphasis added). The language used is the language of fact; it does not suggest what "might happen" or what "could happen".

33. The statements were made specifically to render the reputation of Plaintiff's business as odious, infamous, or subject to disgrace, shame, scorn, or contempt by insinuating that all the businesses to whom the letter was published will become tainted by the presence thereof.
34. The statements regarding the character and purposes of Plaintiff's business are, and were, false.
35. Defendants knew at the time they made the statements that they were false, mischaracterizations, and misrepresentations of fact.
36. Defendants wrote the letter for the specific purpose of defaming Plaintiff in its business, and to cause the landlord not to enter into a lease agreement by which Plaintiff is located in Arlington County.
37. The unauthorized use of the Commonwealth's letterhead and mailing privileges for the purpose of damaging Plaintiff in its trade and business may have been criminal acts, and were certainly tortious.
38. The attempt to intentionally interfere with the economic relations of both the Plaintiff and the landlord constitute tortious misconduct, and therefore an unlawful purpose.
39. Taken as a whole, the statement made by that letter, including fair inferences, implications, and insinuations, was designed to, and did, injure Plaintiff in its reputation, goodwill in the community, trade, and business.
40. As early as March 4, 2016, the defendants were warned that their actions were unlawful and that legal action would be taken against them if they continued. Notwithstanding specific identification of the cause of action the defendants were generating, by the use of the phrase, "tortious interference", and emboldened by their recent success in having destroyed two other similar businesses, this criminal gang, having actual knowledge that their actions were unlawful, persisted in their malicious attempt to destroy Plaintiff's business and reputation. News stories by WJAL reporter Jeff Goldberg and ARLNow.com reported on statements made on Plaintiff's behalf that what the Defendants were attempting to accomplish was unlawful.
41. Some of these defendants continued to make defamatory remarks against the Plaintiff and the Plaintiff's business by means of "Facebook" and "Twitter" to further publish outlandish statements under color of authority through the use of their official titles despite actual notice that their actions in that regard were tortious and unlawful. Other members of the conspiracy used these media to publish false assertions of fact regarding Plaintiff and Plaintiff's business. These remarks were published throughout the United States. For example:

"... gunslinger Denny better watch his every move, and stop being so slinky and unaccountable. If he crosses any legal/moral lines whatsoever, we'll be on him. You betcha! His track record on keeping his arms out of the hands of criminals sucks big time..."

42. Defendant Mark H. Levine, in particular, stated in a "Facebook" post on March 4, 2016:

NoVA Armory, we don't want you selling your weapons of mass destruction near schools in Arlington! We shouldn't have to wait until people are shot dead with your military-grade semiautomatic weaponry to protest this store. Thousands of your neighbors want you gone.

Last weekend, a Woodbridge man who was arrested for pulling a gun on someone in a parking lot murdered his wife and a police officer and shot two others. How did he get his guns? Are you ready to pay for all the funerals of all the people that your guns murder? And provide reimbursement for all wrongful deaths you cause? If not, then please, we beg you, leave Arlington.

You are not welcome here. Arlingtonians will do their best to show you how unwelcome you are. We have options. Perhaps we boycott the entire strip mall? And force people to cross an angry picket line? If business declines at the other stores, maybe the mall owner will change its mind. What do you think?

43. And, on Twitter, the same defendant stated,

"All someone has to do is be from Virginia, buy a bunch of guns, and sell them to DC gangs, no questions asked.";

and

"Cop-killer bullet' is a nickname for armor-piercing bullets... it's very easy to sell an AK-47 to a DC gang member from Arlington if the Armory opens here..."

44. Defendant Mark H. Levine's comments add substance to the perception that what the upper-middle and professional class suburban Virginia neighborhood is worried about is the presence of "undesirables" taking the Metro subway into their lovely Lyon Park neighborhood from the other side of the Anacostia River, buying guns and dealing drugs. These comments, among others, reveal an unfortunate prejudice against the residents of the District of Columbia and Prince George's County, Maryland.
45. The assertion that most of the people from North of the Potomac, or more particularly Plaintiff are, or would be, engaged in the kind of criminal enterprise is a false statement of fact, designed and intended to injure Plaintiff and Plaintiff's business and reputation through racist calumny and is defamatory *per se*.

COUNT 1: CONSPIRACY TO INJURE ANOTHER IN HIS TRADE OR BUSINESS

46. Each and every one of the foregoing paragraphs is included by reference as though fully set forth herein.

47. The tortious acts of public officials acting beyond the scope of their duties as such and without authority, by making libelous statements on official letterhead under the Seal of the Commonwealth of Virginia, acting under color of authority to do so, for the purpose of intentionally, knowingly, willfully, and maliciously injuring Plaintiff in its business and its business reputation constitutes malfeasance in office.
48. At common law, malfeasance in office is both a tort and a criminal offense punishable as a felony and is an independently wrongful act.
49. That malfeasance in office was perpetrated as an abuse of authority in an attempt to coerce, intimidate, and procure the participation, cooperation, agreement or other assistance of Plaintiff's landlord and all others to whom it was published, for the purpose of intentionally, knowingly, willfully, and maliciously injuring Plaintiff in its business and its business reputation.
50. The intentionally tortious attempt to interfere with Plaintiff's economic relations with its landlord was done knowingly, willfully, and maliciously, with actual notice that it was an unlawful and tortious act, and was done for the specific purpose of injuring Plaintiff in its business and its business reputation.
51. The libelous publications made by the defendants were made intentionally, knowingly, willfully, and maliciously, for the specific purpose of injuring Plaintiff in its business and its business reputation. Defamation *per se* is in itself tortious and wrongful.
52. Among other civil rights, the right to enter into contracts is one protected by law under the Constitution of the United States; violation of that civil right under color of state authority is an independently tortious act, committed by some of the defendants in furtherance of the conspiracy as a whole, maliciously, willfully, and intentionally, for the specific purpose of injuring Plaintiff in its trade, business, and reputation.
53. Each of the defendants, named and unnamed, was in communication at some point with at least one of the other defendants, named or unnamed, with regard to the purpose of destroying Plaintiff's reputation and business, or to destroy Plaintiff's business by the destruction of Plaintiff's reputation in the trade, forming a loosely organized network of persons engaged in the same unlawful enterprise which communicated, among other ways, via email "listservs" under the auspices of the Lyon Park Citizens' Association and a group set up for the purpose known as "Act4LyonPark.org".
54. "Act4LyonPark.org" is not a corporate entity chartered in Virginia, and has been set up anonymously through a web-server in Toronto, Canada, as a mask for the Defendants to publish comments in furtherance of their conspiracy without having to reveal their identities.
55. The defendants communicated for that purpose with the specific intention of doing Plaintiff, Plaintiff's business, and Plaintiff's standing in the relevant community injury; and that intention was willful and malicious in itself and carried to the degree it has been, by willful and malicious acts.
56. Defendants willfully and maliciously conspired to coerce the Plaintiff's landlord into acts violative of the lease agreement already in effect, in an attempt to destroy Plaintiff's business. Intentional interference with business expectancy and with contract is, in itself a tortious or wrongful act, and the attempt to do so is thus also tortious.

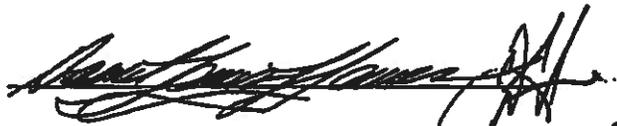
57. Defendants willfully and maliciously conspired to, and did, procure the participation, agreement, cooperation, and other assistance of persons engaged in public journalism, in an attempt to destroy Plaintiff's business reputation by republishing the defamatory comments made among the defendants and published to others through private means.
58. One of the defendants, Hoda Moustafa, is quoted as having said, on behalf of the gang of defendants, in a Washingtonian Magazine ("Washingtonian.com", March 17, 2016) article regarding the goals and purposes of the conspiracy,

"We have other plans, this is not a short-term opposition. This is a long-term battle, and we're not giving up."

WHEREFORE, Plaintiff Broadstone Security, LLC, trading as NoVa Armory moves this Court for entry of an order of judgment against each of the defendants, and all of them, jointly and severally, in the amount of \$2,101,441.14, and further that such amount be trebled and that Plaintiff be awarded its costs and attorneys' fees and interest at the judgment rate on the total thereof from the date of judgment until finally paid.

AND A TRIAL BY JURY IS DEMANDED.

Respectfully Submitted,
Broadstone Security, LLC, trading as NoVa Armory,
Plaintiff, by counsel


Daniel L. Hawes, VSB No. 30076
Counsel for the Plaintiff

Virginia Legal Defense
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Broad Run, VA 20137-0100
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Commonwealth of Virginia

GENERAL ASSEMBLY

RICHMOND

March 2, 2016

Ms. Katya Varley
KV Realty
2300 N. Pershing Drive
Arlington, VA 22201

Dear Ms. Varley:

It has come to our attention through various media reports that a company named "NOVA Armory" has submitted an application to operate a firearms retail store in your shopping center located at 2300 N. Pershing Drive. On behalf of the neighborhood and the broader Arlington community, we strongly urge you to reconsider your decision to grant a lease to NOVA Armory.

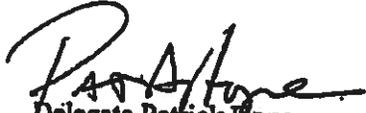
What concerns us the most is the nature of the business of NOVA Armory: the selling of dangerous firearms. As you may know, the Commonwealth of Virginia has the weakest gun safety protection laws in the tri-state region. In the 1990's, Virginia was known as the "gunrunning Capital of the East Coast" with one in three guns in Washington, DC and one in four guns in New York City with traceable origins determined to be bought in Virginia. The culprit was a law allowing for the unlimited purchase of guns, repealed in 1993 but later overturned in 2012.

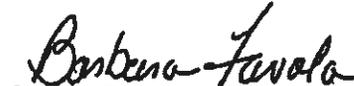
NOVA Armory is already marketing aggressively to residents of surrounding states, including much of the East Coast. Given its proximity to Route 50 with easy access to Interstate 95, this location could be the site for potentially nefarious and illegal activities such as enabling individuals to successfully obtain fraudulent Virginia drivers licenses to purchase firearms, illegally paying Virginia residents to buy guns, creating a "black market" to sell firearms for cash or drugs, or become a magnet for robbery as was recently the case in a firearms store in McLean, Virginia.

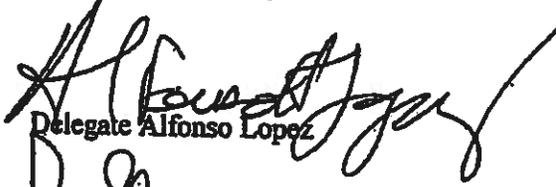
Just as importantly, we are deeply concerned about the impact this particular tenant will have on the rest of your tenants' viability and the character of the surrounding neighborhood. Specifically, small businesses rely on customers living in the neighborhoods to frequent their establishment and we believe certain businesses in your center will be negatively impacted. It is also troubling that the NOVA Firearms store would be located in such close proximity to a child care center. Moreover, property values may also be negatively impacted due to prospective homeowner uncertainty in locating so close to a firearms retail store. In conclusion, while the Commonwealth of Virginia has no legal recourse to prevent a firearms retailer from locating in the Lyon Park neighborhood, we want to make you are

aware of the potentially unintended consequences a firearms retailer will have in this particular location. The selling of firearms, while legal, does not reflect the Arlington community's values. Therefore, we strongly encourage you to reconsider your decision to grant a lease to NOVA Armory.

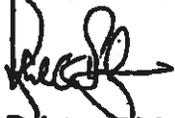
Sincerely yours,


Delegate Patrick Hope

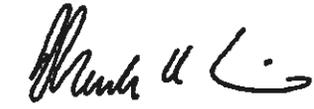

Senator Barbara Favola


Delegate Alfonso Lopez


Senator Janet Howell


Delegate Richard Sullivan


Senator Adam Ebbin


Delegate Mark Levine

- cc:
- Abdulhossien and Homadokht Niakan
 - Medhi Hashemimejad, Arlington Development & Consulting Group, Inc.
 - Mohammed Yousefi, DC
 - Kyu Jung, MK Development & Investment, LLC
 - Wesam Hashish, Dahlia Mediterranean, LLC/Astor
 - Bryan Morrell, Alt's Burger
 - Hau Chun Cheng, Eastern Carry Out
 - Dr. Douglas L. Rizzo, LPC
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