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CITY OF PHILADELPHIA,

Plaintiff,

v.

RASHAD T. ARMSTRONG,

Defendant.

: PHILADELPHIA COUNTY  
: COURT OF COMMON PLEAS  
: CIVIL TRIAL DIVISION  
:  
: OCTOBER TERM, 2019  
: NO. 04036  
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:  
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**PETITION TO INTERVENE**

**TABLE OF CONTENTS**

I.	Proposed Intervenors .....	1
II.	Procedural Background.....	3
III.	Factual Background .....	4
IV.	Basis for Proposed Intervention.....	5
V.	Statement of Relief Sought .....	6
VI.	Conclusion .....	6

## TABLE OF AUTHORITIES

### STATUTES

18 U.S.C. § 922(g)(1) .....5

Phila. Code § 10-838a.....3

### OTHER AUTHORITIES

*100 Children Shot in Philadelphia in 2019* (Nov. 13, 2019),  
<https://www.ceasefirepa.org/general-interest/100-children-shot-in-philadelphia-in-2019-so-far/> .....4

David Chang, *Another Day of Violence in Philadelphia*, NBC Phila. (Jan. 15, 2020), <https://www.nbcphiladelphia.com/news/local/wednesday-shootings-and-stabbing-add-to-phillys-violent-start-to-the-year/2275263/> .....4

David Chang & Matt DeLucia, *Loved Ones Mourn, City Searches for Solutions as Violence Spreads Through Philly*, NBC Phila. (Jan. 14, 2020), <https://www.nbcphiladelphia.com/news/local/loved-ones-mourn-city-searches-for-solutions-as-violence-spreads-through-philly/2274241> .....4

Brett Hambright, *Different Crimes, Similar Stories*, LNP Lancaster Online (June 5, 2007), [https://lancasteronline.com/news/different-crimes-similar-stories/article\\_c3f9931c-dd65-5d8a-9687-27e6ce268416.html](https://lancasteronline.com/news/different-crimes-similar-stories/article_c3f9931c-dd65-5d8a-9687-27e6ce268416.html) .....3

Diane Mastrull, *3 Dead, 7 Injured – Including a Toddler – In 8 Philly Shootings*, Phila. Inquirer (Jan. 12 2020), <https://www.inquirer.com/crime/3-homicides-shootings-philadelphia-20200112.html> .....4

Pa.R.C.P. 2327 .....5

Pa.R.C.P. 2327(4) .....1, 5

Pa.R.C.P. 2328 .....5

*Philadelphia Police: 18-Month Old Boy Injured in Double Shooting in East Germantown*, CBS Philly (Jan. 12, 2020), <https://philadelphia.cbslocal.com/2020/01/12/philadelphia-police-18-month-old-boy-injured-in-double-shooting-in-east-germantown> .....4

Public Health, *Health of the City 2018*, available at <https://www.phila.gov/media/20181220135006/Health-of-the-City-2018.pdf> .....4

Petitioners—CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers in Charge, Inc., Kimberly Burrell, and Freda Hall, by and through their undersigned attorneys, file this Petition to Intervene in the above-captioned action in support of Plaintiff, the City of Philadelphia, pursuant to Pa.R.C.P. 2327(4), Petitioners’ request is supported by the below averments, and by their accompanying Memorandum of Law.

## **I. Proposed Intervenors**

1. Proposed Intervenor CeaseFire Pennsylvania Education Fund (“CeaseFirePA”) is a Pennsylvania nonprofit headquartered in Philadelphia. Its mission is to end the epidemic of gun violence across the Commonwealth and our country through education, coalition building, and advocacy. CeaseFirePA provides resources to students, educators, parents, legislators, and the public who want to learn more about the scourge of gun violence in the Commonwealth of Pennsylvania. Its efforts include working to require mandatory reporting of lost or stolen firearms in order to crack down on some of the major sources of crime guns: loss, theft, and straw purchasers—people who buy guns and then sell them illegally to people who can’t buy them on their own. CeaseFirePA has supporters and community partners in all 67 of Pennsylvania’s counties.

2. Proposed Intervenor Philadelphia Anti-Drug/Anti-Violence Network, Inc. (“PAAN”) is a Pennsylvania nonprofit headquartered in Philadelphia. PAAN, which is based in North Philadelphia, is one of the City’s leading nonprofits dedicated to addressing drug abuse and violence throughout the City. PAAN directly interacts with instances of gun violence through its Violence Interrupter teams, which patrol areas of Philadelphia rife with gun violence by embedding in hot spots of violence between gangs. PAAN works to combat violence by intervening where the violence is most prevalent, using credible messengers who are products of

Philadelphia's most violent neighborhoods as outreach workers to foster meaningful relationships with would-be perpetrators as well as law-abiding residents.

3. Proposed Intervenor Mothers in Charge, Inc. ("Mothers in Charge") is a Pennsylvania nonprofit headquartered in Philadelphia. Mothers in Charge advocates for families affected by violence and provides counseling and grief support services for families when a loved one has been murdered. The organization is operated by mothers, grandmothers, aunts, and sisters who have lost loved ones to acts of violence, often by guns. Mothers in Charge collaborates with elected officials, community leaders and other community and faith-based organizations on legislation and solutions to support safe neighborhoods and communities for children and families. The organization does not oppose responsible gun ownership, but it works to make sure guns are not in the hands of people who should not have them.

4. Proposed Intervenor Kimberly Burrell is a resident of Philadelphia. In 2009, a man with an illegally purchased gun shot and killed her 18-year-old son, Darryl Pray, during an argument with another man in Philadelphia. Darryl was an intelligent young man who had graduated early from high school and was set to enroll at Thompson Institute to study technology. He was a beloved member of his community and a role model for his three younger siblings. The same day Darryl died, another man using another illegally owned gun killed someone else in retaliation for Darryl's murder. In the decade since this tragedy, Ms. Burrell has worked hard to prevent other parents in Philadelphia from experiencing such loss. Ms. Burrell is a resident of the Southwest section of Philadelphia, where she lives with another of her sons. Southwest Philadelphia has a high rate of gun violence.

5. Proposed Intervenor Freda Hall is a resident of Lancaster, Pennsylvania. In 2007, a Philadelphia man named Abdulmumin Walton shot and killed her 19-year-old son, Tyquan

Hall, as he ran away from a street fight in Lancaster. Tyquan was an innocent bystander who was shot in the back as he attempted to flee a violent scene. Tyquan was an outgoing young man who was a beloved member of his community. More than 500 people attended his funeral. Tyquan's murder was part of an ongoing trend in Lancaster of shootings involving guns from Philadelphia, many of which were illegally possessed.<sup>1</sup> *See, e.g.,* Brett Hambright, *Different Crimes, Similar Stories*, LNP Lancaster Online (June 5, 2007), [https://lancasteronline.com/news/different-crimes-similar-stories/article\\_c3f9931c-dd65-5d8a-9687-27e6ce268416.html](https://lancasteronline.com/news/different-crimes-similar-stories/article_c3f9931c-dd65-5d8a-9687-27e6ce268416.html). Since the devastating loss of her son, Ms. Hall has become an outspoken advocate in Lancaster about the need to enforce existing laws regarding gun violence and to do more within the community to prevent senseless acts of violence. She regularly provides support to families in Lancaster who have been affected by gun violence.

## **II. Procedural Background**

6. The City of Philadelphia filed this action on November 1, 2019. The action is filed under a Philadelphia ordinance that requires firearm owners to report lost or stolen firearms “to an appropriate law enforcement official within 24 hours after the loss or theft is discovered.” Phila. Code § 10-838a (the “Ordinance”).

7. Defendant, Rashad T. Armstrong, filed Preliminary Objections on December 9, 2019, and a Motion for Permanent Injunction on December 16, 2019. The Court has scheduled a hearing on the Motion for Permanent Injunction for February 21, 2020 and has required responses to be filed no later than five (5) days before said hearing (Order of Jan. 3, 2020), and it has stayed consideration of the Preliminary Objections pending a determination on Defendant's Motion for Permanent Injunction (Order of Jan. 9, 2020).

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<sup>1</sup> In the present case, the City alleges that the gun traced back to Mr. Armstrong was recovered in 2018 by the Lancaster Police Department.

### III. Factual Background

8. Philadelphia is in the midst of an epidemic of gun violence. According to statistics recently compiled by Proposed Intervenor CeaseFirePA, “[a]s of November 11th, 100 kids in Philadelphia have been shot [in 2019], 12 fatally.” *100 Children Shot in Philadelphia in 2019* (Nov. 13, 2019), <https://www.ceasefirepa.org/general-interest/100-children-shot-in-philadelphia-in-2019-so-far/>.

9. Gun violence in Philadelphia is concentrated in certain neighborhoods, including North Philadelphia, Southwest Philadelphia, and West Philadelphia. City of Philadelphia, Dep’t of Public Health, *Health of the City 2018*, at 24, available at <https://www.phila.gov/media/20181220135006/Health-of-the-City-2018.pdf>.

10. In the first few days of 2020, the City has been wracked with unprecedented levels of gun violence, with more Philadelphians shot than days have passed in the new year. E.g. David Chang, *Another Day of Violence in Philadelphia*, NBC Phila. (Jan. 15, 2020), <https://www.nbcphiladelphia.com/news/local/wednesday-shootings-and-stabbing-add-to-phillys-violent-start-to-the-year/2275263/>; David Chang & Matt DeLucia, *Loved Ones Mourn, City Searches for Solutions as Violence Spreads Through Philly*, NBC Phila. (Jan. 14, 2020), <https://www.nbcphiladelphia.com/news/local/loved-ones-mourn-city-searches-for-solutions-as-violence-spreads-through-philly/2274241/>; *Philadelphia Police: 18-Month Old Boy Injured in Double Shooting in East Germantown*, CBS Philly (Jan. 12, 2020), <https://philadelphia.cbslocal.com/2020/01/12/philadelphia-police-18-month-old-boy-injured-in-double-shooting-in-east-germantown/>; Diane Mastrull, *3 Dead, 7 Injured – Including a Toddler – In 8 Philly Shootings*, Phila. Inquirer (Jan. 12 2020), <https://www.inquirer.com/crime/3-homicides-shootings-philadelphia-20200112.html>.

11. Although this is the first action the City has filed to enforce the Ordinance, *see* Defendant's Motion, Ex. F at 1, the Ordinance has been on the books since 2008, and many individuals were complying with it even before enforcement began.

12. Enforcement of the Ordinance will help to reverse Philadelphia's gun-violence surge, by making it more difficult for criminals to obtain guns on the black market.

13. Many guns used in crimes in Philadelphia are found in the possession of people who lack the right to possess firearms, such as convicted felons, *see* 18 U.S.C. § 922(g)(1), or people who have lost the right to possess a gun as a condition of bail, probation, or parole.

14. All too often, such crime guns are traced back to a lawful purchaser who, when contacted by authorities, claims to have "lost" or "stolen" the gun that was later used in the crime. Much of the time, the original purchaser bought the gun as a straw purchaser for a disqualified buyer, planning to use a bogus "lost" or "stolen" excuse if the gun were ever traced back to him.

#### **IV. Basis for Proposed Intervention**

15. Pursuant to Pennsylvania Rule of Civil Procedure 2327, this Court "shall" permit a party to intervene if "the determination of such action may affect any legally enforceable interest of such person whether or not such person may be bound by a judgment in the action." Pa.R.C.P. 2327(4).

16. If Mr. Armstrong's Motion for Permanent Injunction is granted, no law will require the reporting of lost and stolen firearms in Philadelphia. All of the Proposed Intervenors have a legally enforceable interest in the maintenance of that reporting requirement as set forth in detail in Petitioners' accompanying Memorandum of Law.



**V. Statement of Relief Sought**

17. Pennsylvania Rule of Civil Procedure 2328 provides that a petition to intervene shall contain, *inter alia*, a statement of the relief or defense that petitioner desires to demand or assert.

18. Here, Mr. Armstrong has filed a motion for a permanent injunction seeking to bar the City from enforcing the Ordinance. Mr. Armstrong has also filed preliminary objections seeking an order that the Ordinance is illegal and not enforceable.

19. As set forth above and in Petitioners' Memorandum of Law, Petitioners have a legally enforceable interest in enforcement of the Ordinance. Accordingly, Petitioners, as Intervenor Plaintiffs, will seek an order denying Mr. Armstrong's Motion for a Permanent Injunction. And if the Court lifts the stay on consideration of Mr. Armstrong's Preliminary Objections, Petitioners will seek an order overruling them.

**VI. Conclusion**

WHEREFORE, Proposed Intervenors CeaseFire Pennsylvania Education Fund, Philadelphia Anti-Drug/Anti-Violence Network, Inc., Mothers In Charge, Inc., Kimberly Burrell, and Freda Hall respectfully request that the Court grant this Petition to Intervene in the above-captioned proceeding, and direct Petitioners to file their Answer to Defendant's Motion for

Permanent Injunction and Memorandum of Law in Opposition to Motion for Permanent Injunction no later than five (5) days before the hearing on the permanent injunction currently scheduled for February 21, 2020.

Dated: January 16, 2020

Respectfully submitted,



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