

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

**GUN OWNERS OF AMERICA, INC.,
et al.,**

Plaintiffs,

**Case No. 1:18-cv-01429
Hon. Paul L. Maloney**

v.

MATTHEW WHITAKER, et al.,

Defendants.

**PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSIONS,
INTERROGATORIES AND REQUESTS FOR PRODUCTION
OF DOCUMENTS TO DEFENDANTS**

NOW COME Plaintiffs, **GUN OWNERS OF AMERICA, INC., GUN OWNERS FOUNDATION, VIRGINIA CITIZENS DEFENSE LEAGUE, MATT WATKINS, TIM HARMSSEN, and RACHEL MALONE**, (“Plaintiffs”), by and through their attorneys, PENTIUK, COUVREUR & KOBILJAK, P.C., and hereby request, pursuant to Rule 36 of the Federal Rules of Civil Procedure, that Defendants, **MATTHEW WHITAKER, in his official capacity as Acting Attorney General of the United States; U.S. DEPARTMENT OF JUSTICE; BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES; and THOMAS E. BRANDON, in his official capacity as Acting Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives**, (“Defendants”), admit the truth of the matters set forth in these Requests for Admissions (the “Requests”).

In addition, pursuant to Rules 33 and 34 of the Federal Rules of Civil Procedure, Plaintiffs submit the following Interrogatories and Requests for Production of Documents to Defendants.

The following definitions and instructions apply to each and every part of the Requests for Admissions, Interrogatories and Requests for Production of Documents as if fully set forth therein:

DEFINITIONS

1. “Plaintiffs” shall mean GUN OWNERS OF AMERICA, INC., GUN OWNERS FOUNDATION, VIRGINIA CITIZENS DEFENSE LEAGUE, MATT WATKINS, TIM HARMSSEN, and RACHEL MALONE, and any of their agents and representatives and all persons acting or purporting to act on their behalf.

2. “Defendants” shall mean MATTHEW WHITAKER, in his official capacity as Acting Attorney General of the United States; U.S. DEPARTMENT OF JUSTICE; BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES; and THOMAS E. BRANDON, in his official capacity as Acting Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, and any of their officers, directors, employees, agents and representatives and all persons acting or purporting to act on their behalf.

3. “And” and “or” shall be interpreted and construed as “and/or,” and shall not be interpreted to exclude any information otherwise within the scope of any request.

4. “Including” and “includes” shall be construed to mean “without limitation.”

5. “Relating to” means and includes containing, alluding to, responding to, commenting upon, discussing, regarding, showing, disclosing, explaining, mentioning, analyzing, constituting, concerning, comprising, evidencing, setting forth, summarizing or characterizing, either directly or indirectly, in whole or in part.

6. “Documents” means and includes, but is not limited to, the original and drafts of all written, graphic, or oral matter in any form, however produced or reproduced, of any kind or description, and all copies thereof which are different from the original (whether different by

interlineation, receipt stamp, notation, indication of copies sent or received, or otherwise). Included in such definition are: agreements; communications; including intra-organization communications; e-mails, including intra-organization e-mails; correspondence; telegrams; cables; memoranda; records; books; magazines; bulletins; summaries of records of personal conversations or interviews; diaries; calendars; appointment books; journals; message pads; forecasts; statistics or statistical statements; accountants' work papers; graphs; charts; maps; diagrams; blueprints; tables; indices; pictures; photographs; videocassettes; recordings; tapes; microfilm; charges; accounts; analytical records; minutes or records of meetings or conferences; reports and/or summaries of interviews; reports and/or summaries or investigations; studies; surveys; opinions or reports of consultants; appraisals; records; reports or summaries of negotiations; brochures; pamphlets; circulars; trade letters; press releases; contracts; transcripts; notes, stenographic, handwritten or other notes; projections; working papers; prospectuses; checks, front and back; check stubs; invoices or statements; receipts; vouchers; questionnaires; warranties or guarantees; tape data sheets; data processing cards; diskettes; compact discs; zip files; or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however reproduced, and any other document or writing of whatever description, including but not limited to any information contained in any computer (although not yet printed).

7. "Communication" means any statement, dialogue, colloquy, discussion or conversation, any transfer of thoughts or ideas between persons by means of documents, and any transfer of data from one location to another by electronic or similar means.

8. "Person" means and includes any individual, corporation, partnership, entity, group, association, governmental entity, or any other organization.

9. "Identify" used in reference to an individual person means to state (a) the person's full name and present or last known business and home address and business and home telephone number;

(b) the persons' present or last known title or position and business affiliation; and (c) the person's title or position and business affiliation at the time in question. "Identify" used in reference to any other person or company means to state (a) the person's full name and present or last known address; (b) type of entity; and (c) the names and present or last known positions of the individual persons who are or were principals, agents, or employees and who have knowledge of relevant facts.

10. "Identify" used in reference to a document means to state (a) the date of the document; (b) author or addressor of the document; (c) addressee and recipients of all copies of the document; (d) type of document (e.g., letter, memorandum, telegram, chart, photograph, brochure); and (e) the present location or custodian of the document.

11. "Identify" used in reference to a communication means to state (a) the date of the communication; (b) the place where the communication occurred; (c) the type of communication (e.g., telephone conversation, meeting); (d) the exact contents, if possible, and if not, the substance of the communication by each of the participants; (e) the identity of the person who made it; and (f) the identity of each person who received the communication and all other persons who were present during the communication.

INSTRUCTIONS REGARDING REQUESTS FOR ADMISSIONS

1. Each matter is admitted unless, within thirty (30) days after service of the Requests, Defendants serve a written answer or objection addressed to the matter, signed by Defendants or their attorney.
2. If objection is made, the reasons therefor shall be stated.
3. Defendants may not give lack of information or knowledge as a reason for failure to admit or deny unless they state that they have made reasonable inquiry and that information known or readily obtainable by them is insufficient to enable them to admit or deny.
4. Any denial shall set forth in detail the reasons why Defendants cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that Defendants qualify an answer or deny only a part of the matter of which an admission is requested, they shall specify so much of it as is true and qualify or deny the remainder.
5. If Defendants do not admit an item, they shall:
 - (a) Produce to Plaintiffs all documents concerning the requested admission in their possession, custody or control;
 - (b) State, with particularity, the factual basis upon which their response is based; and
 - (c) Identify each and every person with knowledge of the requested admission.
5. These requests for admissions are continuing. Defendants shall promptly supply by way of supplemental responses any and all additional information that may become known prior to any hearing in or trial of this action.

INSTRUCTIONS FOR INTERROGATORIES AND DOCUMENT REQUESTS

1. The discovery requests contained herein are submitted to Defendants pursuant to Fed. R. Civ. P. 33 and 34. Defendants must produce responsive documents and answer these requests and interrogatories within thirty (30) days after being served with the discovery requests. Each document request shall extend to all documents which are or have been in the possession or subject to the control of Defendants at any time.

2. With respect to any request which is objected to on the ground of any claim of privilege or for any other reason, Defendants shall identify the document and shall further:

- a. state the nature of the claim or privilege or other ground for objection;
- b. state all facts relied upon in support of the claim of privilege or other ground of objection;
- c. identify all documents related to the claim of privilege or other ground of objection;
- d. identify all persons having knowledge of any facts related to the claim of privilege or other ground of objection; and
- e. identify all events, transactions or occurrences related to the claim of privilege or other ground of objections.

3. If any document requested to be produced has been lost, discarded, transferred to others, or destroyed, the document so lost, discarded, transferred to others, or destroyed shall be identified as completely as possible, including the following information:

- a. author;
- b. date and subject matter; and date, manner, reason for; and
- c. person authorizing loss, transfer, discard or disposal.

4. In producing the documents requested, Defendants should indicate the specific request(s) in response to which each document or group of documents is being produced.

5. Documents contained in a computer should be produced on suitable recording media.

6. These requests shall be deemed continuing, requiring prompt, further and supplemental production in the event Defendants obtain, locate or come into possession of additional responsive documents before trial.

**REQUESTS FOR ADMISSIONS, INTERROGATORIES,
AND DOCUMENT REQUESTS**

REQUEST FOR ADMISSION NO. 1.

Please admit no Defendant conducted no physical examination of the firearms found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting. See Complaint Exhibit 33.

RESPONSE:

INTERROGATORY NO. 1.

If Defendants do not fully admit to request for admission no. 1 without reservations, please state the date and place of the physical examination of the firearms, who conducted the examination, and the results of that examination.

RESPONSE:

DOCUMENT REQUEST NO. 1.

Please provide a copy of any written, photos, or video reports of the examination referenced in Interrogatory No. 1.

RESPONSE:

REQUEST FOR ADMISSION NO. 2.

Please admit that Defendant ATF did not conduct a physical examination of the firearms found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting. See Complaint Exhibit 33.

RESPONSE:

INTERROGATORY NO. 2.

If Defendants do not fully admit to request for admission no. 2 without reservations, please state the date and place of the physical examination of the firearms, who conducted the examination, and the results of that examination.

RESPONSE:

DOCUMENT REQUEST NO. 2.

Please provide a copy of any written, photos or video reports of the examination referenced in Interrogatory No. 2.

RESPONSE:

REQUEST FOR ADMISSION NO. 3.

Please admit that Defendant FBI did not conduct a physical examination of the firearms found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting. See Complaint Exhibit 33.

RESPONSE:

INTERROGATORY NO. 3.

If Defendants do not fully admit to request for admission no. 3 without reservations, please state the date and place of the physical examination of the firearms, who conducted the examination, and the results of that examination.

RESPONSE:

DOCUMENT REQUEST NO. 3.

Please provide a copy of any written, photos, or video reports of the examination referenced in Interrogatory No. 3.

RESPONSE:

REQUEST FOR ADMISSION NO. 4.

Please admit that all of the bumpstock devices found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting were set to or locked in fixed stock mode.

RESPONSE:

REQUEST FOR ADMISSION NO. 5.

Please admit that at least one of the AR-15 style firearms found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting was drilled to accept an auto sear.

RESPONSE:

REQUEST FOR ADMISSION NO. 6.

Please admit that at least one of the AR-15 style firearms found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting contained a drop in auto sear (DIAS).

RESPONSE:

REQUEST FOR ADMISSION NO. 7.

Please admit that the FBI denied ATF the opportunity to physically examine the firearms and bumpstocks found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 8.

Please admit that Defendants ATF and Brandon have no first-hand knowledge if any firearms found in the hotel room of Stephen Paddock contain any machinegun parts (e.g., M16 Trigger, M16 Hammer, M16 Disconnecter, M16 Selector, M16 GI Sear, M16 GI Sear Pin) or otherwise had been converted to function as machineguns.

RESPONSE:

REQUEST FOR ADMISSION NO. 9.

Please admit that Defendants ATF and Brandon have no first-hand knowledge whether the bumpstocks affixed to the rifles found in the hotel room of Stephen Paddock were set to fixed-fire mode or bump-fire mode.

RESPONSE:

REQUEST FOR ADMISSION NO. 10.

Please admit that Defendants ATF and Brandon have no first-hand knowledge as to whether the firearms found in the Stephen Paddock hotel room had been fired in the October 1, 2017 shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 11.

Please admit that Defendant ATF and Brandon have no first-hand knowledge as to which of the firearms found in the Paddock hotel room were fired in the October 1 2017 shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 12.

Please admit that Defendant ATF has never tested a bumpfire stock affixed to a semi automatic firearm equipped with a bi-pod.

RESPONSE:

REQUEST FOR ADMISSION NO. 13.

Please admit that Defendant ATF has no first-hand knowledge as to whether the firearms found in the Stephen Paddock hotel room have been cleaned since Stephen Paddock's death on October 1, 2017.

RESPONSE:

REQUEST FOR ADMISSION NO. 14.

Please admit that no machine guns (i.e., fully automatic weapons excluding bumpstocks) were found in the hotel room of Stephen Paddock, or used anywhere in connection with the Route 91 Harvest music festival shooting on October 1, 2017.

RESPONSE:

REQUEST FOR ADMISSION NO. 15.

Please admit that Defendants have no evidence that bumpstock-equipped firearms were fired in the Las Vegas shooting on October 1, 2017.

RESPONSE:

REQUEST FOR ADMISSION NO. 16.

Please admit that a rifle equipped with a bumpstock cannot be bump fired using only one hand.

RESPONSE:

REQUEST FOR ADMISSION NO. 17.

Please admit that human technique is necessary to bump fire a rifle equipped with a bumpstock.

RESPONSE:

REQUEST FOR ADMISSION NO. 18.

Please admit that ATF Director Brandon agreed with the ATF decisions that were issued during his tenure as Acting Director to classify bumpstocks as firearm accessories and not machineguns when those decisions were issued.

RESPONSE:

REQUEST FOR ADMISSION NO. 19.

Please admit that the person who served as the Acting Chief of the FATB in 2017 disagreed with the bumpstock Final Rule issued December 26, 2018.

RESPONSE:

DOCUMENT REQUEST NO. 4.

Please produce any and all reports, emails, correspondences in which ATF personnel express their opinions, understanding, views, concerns, and/or reservations concerning, or disagreement with,

the December 26, 2018 bumpstock Final Rules' legal conclusion that bump stocks are machine gun parts or make a semi-automatic rifle into a machine gun when attached to a semi-automatic rifle.

RESPONSE:

REQUEST FOR ADMISSION NO. 20.

Please admit that no version of the Slidefire Bumpstock contains any device or parts that would permit it to harness, store, or transmit energy.

RESPONSE:

REQUEST FOR ADMISSION NO. 21.

Please admit that a bumpstock equipped semi-automatic rifle cannot fire a second round until the trigger finger is physically separated from the trigger.

RESPONSE:

REQUEST FOR ADMISSION NO. 22.

Please admit that bump firing a semi-automatic firearm using a rubber band does not constitute automatic fire.

RESPONSE:

REQUEST FOR ADMISSION NO. 23.

Please admit that all semi-automatic firearms, by definition, operate through a “self-acting or self-regulating mechanism” that “harness[es] the recoil energy of the semiautomatic firearm.”

RESPONSE:

REQUEST FOR ADMISSION NO. 24.

Please admit that all semi-automatic AR-15 type firearms not equipped with a bumpstock, by definition, operate through a “self-acting or self-regulating mechanism” that “harness[es] the recoil energy of the semiautomatic firearm.”

RESPONSE:

REQUEST FOR ADMISSION NO. 25.

Please admit that neither Defendants ATF and Brandon conducted a physical examination of any magazines found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting. See Exhibit 33.

RESPONSE:

REQUEST FOR ADMISSION NO. 26.

Please admit that neither Defendants ATF and Brandon conducted a physical examination of any ammunition or fired ammunition cases found in the hotel room of Stephen Paddock after the October 1, 2017 Las Vegas shooting. See Exhibit 33.

RESPONSE:

REQUEST FOR ADMISSION NO. 27.

Please admit Defendant(s) made video recording(s) or photographs or written reports of its/their testing of the Slidefire bumpstock device.

RESPONSE:

DOCUMENT REQUEST NO. 5.

Please produce a copy of all such video recordings, photographs and any accompanying or related written reports or analysis identified in Request 27.

RESPONSE:

REQUEST FOR ADMISSION NO. 28.

Please admit that during Defendants' testing of the Slidefire device, the semi-automatic rifle to which it was attached never fired more than one round with a single function of the trigger on any occasion.

RESPONSE:

REQUEST FOR ADMISSION NO. 29.

Please admit that during Defendants testing of the Slidefire device , the semi-automatic rifle to which it was attached never fired more than one round with a single pull of the trigger absent additional human technique.

RESPONSE:

REQUEST FOR ADMISSION NO. 30.

Please admit that ATF obtained the serial numbers of the firearms found in Stephen Paddock after the October 1, 2017 Las Vegas shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 31.

Please admit that ATF conducted a trace of the serial numbers of the firearms found in Stephen Paddock after the October 1, 2017 Las Vegas shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 32.

Please provide a copy of all reports and documentation for each firearm Stephen Paddock obtained by serial number after the October 1, 2017 Las Vegas shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 33.

Please produce copies of the form 4473 for each firearm found in Stephen Paddock's room after the October 1, 2017 Las Vegas shooting.

RESPONSE:

INTERROGATORY NO. 4

Please state the current physical location and person assigned to secure all firearms discovered in Stephen Paddock's room after the October 1, 2017 Las Vegas shooting.

RESPONSE:

REQUEST FOR ADMISSION NO. 34.

Please admit that the Final Rule was promulgated by Defendants due to President Trump's memo to the Attorney General directing the same.

RESPONSE:

REQUEST FOR ADMISSION NO. 35.

Please admit that no crimes committed using a bumpstock have ever been established in a court of law.

RESPONSE:

REQUEST FOR ADMISSION NO. 36.

Please admit that bumpstocks retail between \$250 to \$350 dollars each, or more.

RESPONSE:

REQUEST FOR ADMISSION NO. 37.

Please admit that semi-automatic firearms with a conventional stock (not a bumpstock) are not machine guns.

RESPONSE:

REQUEST FOR ADMISSION NO. 38.

Please admit that ATF Ruling 81-4 was not applied to auto sears manufactured before November 1, 1981.

RESPONSE:

REQUEST FOR ADMISSION NO. 39.

Please admit that, pursuant to ATF Ruling 81-4, auto sears manufactured before November 1, 1981 are not subject to the National Firearms Act or 27 C.F.R. Part 179.

RESPONSE:

REQUEST FOR ADMISSION NO. 40.

Please admit that pursuant to ATF Ruling 81-4, auto sears manufactured before November 1, 1981 are not contraband.

RESPONSE:

REQUEST FOR ADMISSION NO. 41.

Please admit that ATF Ruling 81-4 was applied only to auto sears manufactured on or after November 1, 1981.

RESPONSE:

REQUEST FOR ADMISSION NO. 42.

Please admit that an auto sear known by various trade names including “AR15 Auto Sear,” “Drop In Auto Sear,” and “Auto Sear II,” is a machinegun as defined by 26 U.S.C. § 5845(b).

RESPONSE:

REQUEST FOR ADMISSION NO. 43.

Please admit that the National Firearms Registration and Transfer Record (NFRTR) has been opened to permit the registration of machineguns manufactured after May 19, 1986.

RESPONSE:

INTERROGATORY NO. 5

Please state the occurrences when the National Firearms Registration and Transfer Record (NFRTR) has been opened to permit the registration of machineguns manufactured after May 19, 1986.

RESPONSE:

REQUEST FOR ADMISSION NO. 44.

Please admit that, in the past, including in ATF Rulings 76-6, 81-4, and 82-8, ATF has avoided requiring surrender or destruction of various reclassified items by stating that a given “ruling will not be applied” to items that predate the ruling.

RESPONSE:

REQUEST FOR ADMISSION NO. 45.

Please admit that no defendant has any knowledge whatsoever that any shots were fired on the concertgoers at the Route 91 Harvest music festival on October 1, 2017 by anyone other than Stephen Paddock.

RESPONSE:

INTERROGATORY NO. 6

If you do not admit for Request for Admission no. 45, please provide all other information about all other shooters.

INTERROGATORY NO. 7

Please provide the number of all expended firearm shell casings that were recovered on October 1, 2017 in Las Vegas, by location, including, for example, in Stephen Paddock's room, in the hall, outside the window.

INTERROGATORY NO. 8

Please specify the time elapsed between Stephen Paddock's first shot and last shot that were fired on the crowd at the Route 91 Harvest music festival.

REQUEST FOR ADMISSION NO. 46.

Please admit that ATF had not been aware of and did not investigate the large number of firearms purchased by Stephen Paddock (reported to be over 40 weapons) in the one-year period prior to October 1, 2017.

REQUEST FOR ADMISSION NO. 47.

Please admit that defendant has no knowledge whatsoever that Stephen Paddock was engaged in international or domestic trafficking in firearms.

RESPONSE:

REQUEST FOR ADMISSION NO. 48.

Please admit that the two-and-a-half-page report (“Key Findings of the Behavioral Analysis Unit’s Las Vegas Review Panel”) issued by the FBI on January 29, 2019 contains the only findings and conclusions reached by the government in its year-long, multi-disciplinary investigation of the Route 91 Harvest music festival shooting on October 1, 2017.

Respectfully submitted,
PENTIUK, COUVREUR & KOBILJAK, P.C.

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