

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, IN AND FOR PALM BEACH
COUNTY, FLORIDA

CASE NO:

**PAMELA GRUNOW, Individually, as
Personal Representative of the Estate
of BARRY GRUNOW, Deceased, and
as Next Friend and Natural Guardian
of SAMUEL GRUNOW, a Minor, and
LEE-ANNE GRUNOW, a Minor,**

Plaintiff,

v.

**VALOR CORPORATION OF FLORIDA,
a Florida Corporation; IRVING MANDEL,
d/b/a HYPOLUXO PAWN SHOP;
POLLY POWELL, a/k/a POLLY ANN
JOSEY WHITEFIELD, as Next Friend
and Natural Guardian of
NATHANIEL BRAZILL, a Minor,**

Defendants.

_____ /

COMPLAINT

**Plaintiff, PAMELA GRUNOW, Individually, as Personal Representative of the
Estate of BARRY GRUNOW, Deceased, and as Next Friend and Natural Guardian of
SAMUEL GRUNOW, a minor, and LEE-ANNE GRUNOW, a minor, through her
undersigned counsel, sues the Defendants, VALOR CORPORATION OF FLORIDA, a
Florida corporation, IRVING MANDEL, d/b/a HYPOLUXO PAWN SHOP, and POLLY
POWELL, a/k/a POLLY ANN JOSEY WHITEFIELD, as Next Friend and Natural Guardian
of NATHANIEL BRAZILL, a minor, and alleges:**

1. This action arises out of the tragic shooting death of schoolteacher, BARRY GRUNOW, by a seventh-grade student, on May 26, 2000, in Lake Worth, Florida. This tragedy occurred because a firearm distributor and a firearm dealer sold a handgun that was unreasonably dangerous and lacked means to prevent an unauthorized person from using it, because a firearm owner negligently stored the gun where a juvenile could obtain access to it, and because a thirteen-year-old boy was able to easily use (operate) the gun.

2. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, attorneys fees, and costs.

PARTIES

3. Plaintiff, PAMELA GRUNOW, is a resident of Palm Beach County, Florida, and is at all times relevant hereto sui juris. PAMELA GRUNOW was married to BARRY GRUNOW, who was a resident of Palm Beach County, Florida, at the time of his death on May 26, 2000. PAMELA GRUNOW is the Personal Representative of the Estate of BARRY GRUNOW.

4. BARRY GRUNOW, deceased, and PAMELA GRUNOW, are the natural parents of minor children, SAMUEL GRUNOW, age 5, and LEE-ANNE GRUNOW, age 10 months. Both children were wards of and in the care and custody of BARRY GRUNOW and PAMELA GRUNOW at the time of the shooting that resulted in

the death of BARRY GRUNOW. PAMELA GRUNOW is the natural guardian and next friend of SAMUEL GRUNOW and LEE-ANNE GRUNOW.

5. Defendant, VALOR CORPORATION OF FLORIDA, is a Florida corporation, duly authorized to do business in and about the State of Florida.

6. Defendant, IRVING MANDEL, d/b/a HYPOLUXO PAWN SHOP, is a resident of Palm Beach County, Florida, who owns and operates HYPOLUXO PAWN SHOP, a sole proprietorship that does retail business in Palm Beach County, Florida.

7. NATHANIEL BRAZILL is a minor, who at the time of the incident that is the subject of this action, resided in Palm Beach County, Florida, under the custody, care and control of his mother, POLLY POWELL, a/k/a POLLY ANN JOSEY WHITEFIELD, and who is presently incarcerated at the Palm Beach County Jail, Palm Beach County, Florida, where he is charged with the first degree murder of BARRY GRUNOW.

8. Defendant, POLLY POWELL, a/k/a POLLY ANN JOSEY WHITEFIELD, a Florida resident living in Palm Beach County, is the Next Friend and Natural Guardian of NATHANIEL BRAZILL.

**THE MANUFACTURE, DISTRIBUTION, AND SALE
OF THE RAVEN HANDGUN**

9. The firearm that is the subject of this lawsuit is a Raven .25 caliber semi-automatic pistol (hereinafter the 🕊Raven handgun🕊). It was manufactured by a company, Raven Arms, Inc. of Industry, CA, that is no longer in business. It was

distributed and placed into the stream of commerce by Defendant, VALOR CORPORATION OF FLORIDA, a Florida corporation; and placed into the community at its original point of retail sale by Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP.

10. The Raven handgun was not altered and was in the same condition, in all material respects, at the time of its manufacture, its distribution by VALOR CORPORATION OF FLORIDA, its sale by IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, and its use in the shooting incident that is the subject of this lawsuit.

11. The Raven handgun is a low-quality firearm of the kind commonly known as a "Saturday Night Special" or "junk gun." It is an inaccurate and unreliable weapon made from poor quality materials, including low grade, soft metal. It is a lightweight gun with a short barrel, and it is easily concealed. It is particularly attractive to, and frequently and disproportionately used by, juveniles and criminals. The federal Bureau of Alcohol, Tobacco, and Firearms (ATF) has reported that the Raven .25 caliber semi-automatic pistol is consistently among the most frequently recovered and traced crime guns, ranking third on the list of top crime guns in 1996 and 1997, and fourth in 1998. A study issued by the Youth Crime Gun Interdiction Initiative of ATF reported that the Raven .25 caliber semi-automatic pistol was among the top ten most frequently recovered and traced crime guns in 22 of 27 cities studied, including Miami, Florida. According to the same study, the rates at which law

enforcement officers recovered the Raven .25 caliber semi-automatic pistol from criminals was disproportionately high among the youngest offenders, with the Raven .25 caliber pistol ranking as the number one most frequently recovered and traced crime gun for offenses committed by juveniles (ages 17 and under) in ten of the cities studied, including Miami, Florida.

12. The Raven handgun can be fired by any person who gains access to it, including juveniles and others who are not authorized to use it. It did not have any safety device or mechanism to prevent unauthorized users from firing it, although such devices and mechanisms were known and feasible at the time of its manufacture, distribution, and sale.

13. From before the time the Raven handgun was designed, manufactured, distributed, and sold, it was highly foreseeable to handgun manufacturers, distributors, and dealers that a handgun like this one would be stored in a manner that enables juveniles and other unauthorized persons to obtain and use it. A study of data from the National Center for Health Statistics indicated that many firearms are stored in a manner that increases the chance of a juvenile gaining access to a firearm and discharging it. According to that study, over 40 percent of gun owners living with children store their guns without locking them up in any manner. The rates at which guns are stored unlocked is even worse in homes without children, with more than 50 percent of these gun owners failing to secure their guns with any type of lock.

14. From before the time the Raven handgun was designed, manufactured, distributed, and sold, it was highly foreseeable to handgun manufacturers, distributors, and dealers that a handgun like this one would fall into the hands of a juvenile or other unauthorized person, and that such a person would misuse the gun to injure or kill an innocent person. One recent survey found that nearly 60 percent of children between the ages of 10 and 19 said that they can acquire a handgun should they want one. The same survey found that 15 percent of children between the ages of 10 and 19 reported that they had carried a handgun in the past 30 days.

**THE NEGLIGENT STORAGE
OF THE RAVEN HANDGUN**

15. At the time of the shooting that is the subject of this lawsuit, the Raven handgun belonged to ELMORE McCRAY. He stored the gun inside an unlocked box in the unlocked bottom drawer of a dresser in the bedroom of his home. He stored the ammunition magazine (or clip) and ammunition for the gun in the same drawer, in immediate proximity to the gun.

16. ELMORE McCRAY, is the father of NATHANIEL BRAZILL's god-mother. NATHANIEL BRAZILL refers to ELMORE McCRAY, as his Granddad. NATHANIEL BRAZILL frequently spent time at the home of ELMORE McCRAY, including time when he was not supervised by ELMORE McCRAY, or another adult.

**NATHANIEL BRAZILL'S USE
OF THE RAVEN HANDGUN**

17. On or about May 20 or 21, 2000, NATHANIEL BRAZILL found the Raven handgun in the box in the dresser drawer in the home of ELMORE McCRAY. NATHANIEL BRAZILL also found the ammunition in the same drawer and loaded the gun with it. When NATHANIEL BRAZILL returned to his own home, he brought the gun with him, concealed in a bag containing his clothes.

18. NATHANIEL BRAZILL's possession and use of the gun was not authorized by the owner of the gun, ELMORE McCRAY.

19. On or about Friday, May 26, 2000, the last day of school at Lake Worth Middle School in Palm Beach County, Florida, a school official sent NATHANIEL BRAZILL home early from school for throwing a water balloon. On that same day, NATHANIEL BRAZILL retrieved the Raven handgun from his home and returned to the campus of Lake Worth Middle School with the Raven handgun concealed on his person.

20. A school police officer or officers saw NATHANIEL BRAZILL enter the school grounds, but did not know that he was carrying a firearm because, consistent with the intentions of its design, NATHANIEL BRAZILL easily concealed the Raven handgun on his person as he entered the school.

21. Upon entering the school, NATHANIEL BRAZILL went to the classroom of teacher BARRY GRUNOW whereupon BRAZILL took out the Raven handgun and shot and killed GRUNOW.

COUNT I

**STRICT LIABILITY UNREASONABLY DANGEROUS PRODUCT
AS TO DEFENDANTS, VALOR CORPORATION OF FLORIDA AND
IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP**

Plaintiff re-adopts and re-alleges Common Paragraphs 1 through 21 as though fully

set forth herein and further alleges:

22. Defendant, VALOR CORPORATION OF FLORIDA, obtained the Raven handgun that is the subject of this lawsuit from Raven Arms of Industry, CA, for the purpose of distributing it, for profit, into the stream of commerce and, ultimately, to individuals within the community.

23. Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, obtained the Raven handgun that is the subject of this lawsuit from Defendant, VALOR CORPORATION OF FLORIDA, for the purpose of selling it, for profit, to individuals within the community.

24. The Raven handgun distributed by Defendant, VALOR CORPORATION OF FLORIDA, and sold by Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, was unreasonably and unnecessarily dangerous, beyond the level of danger obvious and inherent in any gun, because it was, at the time of distribution, known to be:

- A) A low-quality weapon of choice for criminals commonly referred to as a "Saturday Night Special" or a "junk gun";
- B) Made with poor quality materials including low grade, soft metal;

- C) Short barreled, lightweight and easily concealed;**
- D) An inaccurate and unreliable weapon;**
- E) Particularly attractive to, and disproportionately used by, juveniles and criminals;**
- F) Primarily used for criminal activity and virtually useless for legitimate purposes of law enforcement, sport, or protection of persons or property;**
- G) The type of handgun which presents particular problems for law enforcement officers; and**
- H) A dangerous product that would chiefly be used by a class of persons likely to misuse the product.**

25. At all relevant times, it was reasonably foreseeable to Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, that a firearm like the Raven handgun they distributed and sold would be obtained and used in a shooting by a juvenile or other unauthorized person.

26. The surviving members of the family of BARRY GRUNOW, his wife, PAMELA GRUNOW, and his minor children, SAMUEL GRUNOW and LEE ANN GRUNOW, lost the support and services of BARRY GRUNOW, and in the future, will suffer the loss of his support and services, the amount of his probable net income and the replacement value of his services, loss of his companionship, assistance, instruction and guidance, and experienced mental pain and suffering.

27. As a result of the death of BARRY GRUNOW, the estate of BARRY GRUNOW lost earnings from the date of his death, lost prospective net accumulations of his estate and funeral expenses.

28. The unreasonably and unnecessarily dangerous condition of the Raven handgun distributed by Defendant, VALOR CORPORATION OF FLORIDA, and sold by Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, was a legal, proximate, and factual cause of injuries suffered by Plaintiff.

WHEREFORE Plaintiff demands judgment against Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, for compensatory damages, costs of this action and demands trial by jury on all issues so triable as right.

COUNT II

NEGLIGENCE  UNREASONABLY DANGEROUS PRODUCT AS TO DEFENDANTS, VALOR CORPORATION OF FLORIDA AND IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP

Plaintiff re-adopts and re-alleges Common Paragraphs 1 through 21 as though fully

set forth herein and further allege:

29. Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, had a duty, and knew or should have known that they had a duty, to guard against reasonably foreseeable injuries that might result from the expected misuse of the unreasonably and unnecessarily dangerous product they distributed and sold.

30. Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, breached their duty of care by distributing and selling the Raven handgun, which was, at the time of distribution and sale, known to be:

- A) A low-quality weapon of choice for criminals commonly referred to as a "Saturday Night Special" or a "junk gun";
- B) Made with poor quality materials including low grade, soft metal;
- C) Short barreled, lightweight and easily concealed;
- D) An inaccurate and unreliable weapon;
- E) Particularly attractive to, and disproportionately used by, juveniles and criminals;
- F) Primarily used for criminal activity and virtually useless for legitimate purposes of law enforcement, sport, or protection of persons or property;
- G) The type of handgun which presents particular problems for law enforcement officers; and
- H) A dangerous product that would chiefly be used by a class of persons likely to misuse the product.

31. At all relevant times, it was reasonably foreseeable to Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, that a firearm like the Raven handgun they distributed and sold would be obtained and used in a shooting by a juvenile or other unauthorized person.

32. The surviving members of the family of BARRY GRUNOW, his wife, PAMELA GRUNOW, and his minor children, SAMUEL GRUNOW and LEE ANN GRUNOW, lost the support and services of BARRY GRUNOW, and in the future will suffer the loss

of his support and services, the amount of his probable net income and the replacement value of his services, loss of his companionship, assistance, instruction and guidance, and experienced mental pain and suffering.

33. As a result of the death of BARRY GRUNOW, the estate of BARRY GRUNOW lost earnings from the date of his death, lost prospective net accumulations of his estate and funeral expenses.

34. The breaches by Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, of their duties were legal, proximate, and factual causes of injuries suffered by Plaintiff.

WHEREFORE Plaintiff demands judgment against Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, for compensatory damages, costs of this action and demands trial by jury on all issues so triable as right.

COUNT III

**STRICT LIABILITY DESIGN DEFECT, FAILURE TO
IMPLEMENT FEASIBLE, SAFER, ALTERNATIVE DESIGN
AS TO DEFENDANTS, VALOR CORPORATION OF FLORIDA AND
IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP**

Plaintiff re-adopts and re-alleges Common Paragraphs 1 through 21 as though fully

set forth herein and further alleges:

35. Defendant, VALOR CORPORATION OF FLORIDA, obtained the Raven handgun that is the subject of this lawsuit from Raven Arms of Industry, CA, for the purpose of distributing it, for profit, into the stream of commerce and, ultimately, to individuals within the community.

36. Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, obtained the Raven handgun that is the subject of this lawsuit from Defendant, VALOR CORPORATION OF FLORIDA, for the purpose of selling it, for profit, to individuals within the community.

37. The Raven handgun distributed by Defendant, VALOR CORPORATION OF FLORIDA, and sold by Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, was defective and unreasonably and unnecessarily dangerous, beyond the level of danger obvious and inherent in any gun, because it did not include feasible safety devices or mechanisms that would have prevented it from being fired by an unauthorized user like NATHANIEL BRAZILL.

38. At all relevant times, it was reasonably foreseeable to Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, that a firearm like the Raven handgun they distributed and sold would be obtained and used in a shooting by a juvenile or other unauthorized person.

39. The surviving members of the family of BARRY GRUNOW, his wife, PAMELA GRUNOW, and his minor children, SAMUEL GRUNOW and LEE ANN GRUNOW,

lost the support and services of BARRY GRUNOW, and in the future will suffer the loss of his support and services, the amount of his probable net income and the replacement value of his services, loss of his companionship, assistance, instruction and guidance, and experienced mental pain and suffering.

40. As a result of the death of BARRY GRUNOW, the estate of BARRY GRUNOW lost earnings from the date of his death, lost prospective net accumulations of his estate and funeral expenses.

41. The defective and unreasonably and unnecessarily dangerous condition of the Raven handgun distributed by Defendant, VALOR CORPORATION OF FLORIDA, and sold by Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, was a legal, proximate, and factual cause of injuries suffered by Plaintiff.

WHEREFORE Plaintiff demands judgment against Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, for compensatory damages, costs of this action and demands trial by jury on all issues so triable as right.

COUNT IV

NEGLIGENCE  NEGLIGENT DESIGN, FAILURE TO IMPLEMENT FEASIBLE, SAFER, ALTERNATIVE DESIGN AS TO DEFENDANTS, VALOR CORPORATION OF FLORIDA AND IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP

Plaintiff re-adopts and re-alleges Common Paragraphs 1 through 21 as though fully

set forth herein and further alleges:

42. Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, had a duty, and knew or should have known that they had a duty, to guard against injuries that might result from the reasonably foreseeable use of the defective and unreasonably and unnecessarily dangerous product they distributed and sold.

43. Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, breached their duty of care by selling the Raven handgun, which did not include safety devices or mechanisms that would have prevented it from being fired by an unauthorized user like NATHANIEL BRAZILL.

44. At all relevant times, it was reasonably foreseeable to Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, that a firearm like the Raven handgun they distributed and sold would be obtained and used in a shooting by a juvenile or other unauthorized person.

45. The surviving members of the family of BARRY GRUNOW, his wife, PAMELA GRUNOW, and his minor children, SAMUEL GRUNOW and LEE ANN GRUNOW, lost the support and services of BARRY GRUNOW, and in the future will suffer the loss of his support and services, the amount of his probable net income and the

replacement value of his services, loss of his companionship, assistance, instruction and guidance, and experienced mental pain and suffering.

46. As a result of the death of BARRY GRUNOW, the estate of BARRY GRUNOW lost earnings from the date of his death, lost prospective net accumulations of his estate and funeral expenses.

47. The breaches by Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, of their duties were legal, proximate, and factual causes of injuries suffered by Plaintiff.

WHEREFORE Plaintiff demands judgment against Defendant, VALOR CORPORATION OF FLORIDA, and Defendant, IRVING MANDEL d/b/a HYPOLUXO PAWN SHOP, for compensatory damages, costs of this action and demands trial by jury on all issues so triable as right.

COUNT V

**LIABILITY AS TO DEFENDANT, POLLY POWELL,
a/k/a POLLY ANN JOSEY WHITEFIELD,
as Next Friend and Natural Guardian of NATHANIEL BRAZILL, a Minor**

Plaintiff re-adopts and re-alleges Common Paragraphs 1 through 21 as though fully set forth herein and further alleges:

48. NATHANIEL BRAZILL used the Raven handgun intentionally, willfully, wantonly, and maliciously to shoot BARRY GRUNOW, inflicting wounds that ultimately caused his death.

49. As a direct and proximate result of the intentional and malicious act of NATHANIEL BRAZILL, BARRY GRUNOW suffered bodily injury and resulting pain and suffering that caused his death.

50. The surviving members of the family of BARRY GRUNOW, his wife, PAMELA GRUNOW, and his minor children, SAMUEL GRUNOW and LEE ANN GRUNOW, lost the support and services of BARRY GRUNOW, and in the future will suffer the loss of his support and services, the amount of his probable net income and the replacement value of his services, loss of his companionship, assistance, instruction and guidance, and experienced mental pain and suffering.

51. As a result of the death of BARRY GRUNOW, the estate of BARRY GRUNOW lost earnings from the date of his death, lost prospective net accumulations of his estate and funeral expenses.

WHEREFORE Plaintiff demands judgment against Defendant, POLLY POWELL, a/k/a POLLY ANN JOSEY WHITEFIELD, as Next Friend and Natural Guardian of NATHANIEL BRAZILL, a minor, for compensatory damages, costs of this action and demands trial by jury on all issues so triable as of right.

ATTORNEYS FOR THE PLAINTIFF:

By: _____
ROBERT M. MONTGOMERY, JR.
Florida Bar No.: 056153
MONTGOMERY & LARMOYEUX
1016 Clearwater Place
P.O. Drawer 3086
West Palm Beach, Florida 33401
Telephone: 561-832-2880
Facsimile: 561-832-0887

EDNA L. CARUSO
Florida Bar No.: 126509
CARUSO, BURLINGTON, BOHN,
& COMPANIANI, P.A.
Suite 3A / Barristers Bldg.
1615 Forum Place
West Palm Beach, FL 33401
Telephone: 561-686-8010

Pending Admission *Pro Hac Vice*:

DENNIS A. HENIGAN
BRIAN J. SIEBEL
JONATHAN E. LOWY
ALLEN K. ROSTRON
RACHANA BHOWMIK
CENTER TO PREVENT HANDGUN
VIOLENCE- LEGAL ACTION PROJECT
1250 Eye Street, N.W., Suite 802
Washington, DC 2005
Telephone: 202-289-7319
Facsimile: 202-898-0059