

D. Joseph Ferris (ID No. 314146)
William J. Clements (ID No. 86348)
1835 Market Street, Suite 1400
Philadelphia, PA 19103
Phone: (215) 569-2700
Fax: (215) 568-6603
jferris@klehr.com
wclements@klehr.com

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

CIVIL ACTION

Docket No. 25-00737

Plaintiff DonutNV Franchising, Inc., through its undersigned attorneys, through its undersigned attorneys, pursuant to Rules 4005 and 4003.5 of the Pennsylvania Rules of Civil Procedure, hereby requests that defendants Sean Kelly and Relentless, Inc. t/d/b/a Unhappy Franchisee answer the below interrogatories (“Interrogatories”) within thirty days from service hereof.

1. “Action” means the above-captioned litigation.
2. “Plaintiff” means DonutNV Franchising, Inc., as well as its members, officers, directors, principals, employees, agents, attorneys and/or representatives, both present and former, and any other persons or entities acting or purporting to act on behalf of any of the above.
3. “Kelly” means Sean Kelly, a named defendant in this Action.

4. “Unhappy Franchisee” means defendant Relentless, Inc. t/d/b/a Unhappy Franchisee, as well as its members, officers, directors, principals, employees, agents, attorneys and/or representatives, both present and former, and any other persons or entities acting or purporting to act on behalf of any of the above.

5. “Defendants,” “You,” or “Your” collectively means Kelly and Unhappy Franchisee.

6. “Complaint” means the complaint filed by Plaintiff in this Action.

7. “Counterclaim” means the counterclaim filed by Defendants in this Action.

8. “Communications” means any written or electronic manner of transmitting or receiving information, opinions or thoughts, including, but not limited to, correspondence, email, text messages, memoranda and faxes.

9. “Concerning” or “concerns” include without limitation the following concepts: relating, referring, describing, evidencing, constituting, comprising, consisting of, containing, discussing, mentioning, pertaining in whole or part to, setting forth, dealing with, evaluating, analyzing, estimating, studying, surveying, summarizing, reporting and/or representing.

10. “Defense(s)” means all New Matter asserted in Your Answer and Counterclaim.

11. “Document” or “documents” include without limitation, electronically stored information (“ESI,” as defined further below) and any written, recorded, filmed or graphic matter, whether reproduced or on paper, cards, tapes, film, electronic facsimile, email, text messages, computer storage devices or any other media, including, but not limited to, papers, books, letters, photographs, objects, tangible things, correspondence, telegrams, cables, telex messages, memoranda, notes, notations, records, work papers, transcripts, minutes, reports and recordings, affidavits, statements, charts, graphs, specifications, drawings, blueprints, summaries, opinions,

proposals, reports, studies, analyses, audits, evaluations, contracts, agreements, journals, statistical records, ledgers, books of account, bookkeeping entries, financial statements, tax returns, vouchers, checks, check stubs, invoices, receipts, desk calendars, diaries, lists, tabulations, summaries, sound output, microfilms, all records kept by electronic, photographic or mechanical means and all things similar to any of the foregoing. A draft or non-identical copy is a separate document within the meaning of this term.

12. “ESI” means all electronically stored information, including but not limited to computer files, electronic mail, text messages, instant messages, information on social media or other websites (*e.g.*, Facebook, LinkedIn), information stored on “smart” or other Internet-and-text capable cellular phones or tablet devices (*e.g.*, iPad), information stored on USB, “flash” drives, or other portable electronic media, information stored on cloud storage sites, and any other discoverable Internet data. ESI includes native file formats without alteration or deletion of any associated information including metadata.

13. “Former Franchisee(s)” means all individuals or entities that were previously granted a franchise agreement to operate a business under the “DonutNV” trademark and Plaintiff’s franchise model, but is presently no longer operating under such agreement and model.

14. “Current Franchisee(s)” means all individuals or entities that have been granted a franchise agreement to operate a business under the “DonutNV” trademark and Plaintiff’s franchise model, and which continue to operate under such agreement and model.

15. “Person” means any natural person or any business, legal, or governmental entity or association.

16. “Blog Posts” means all postings, commentary, messages, screen shots, photographs, and other forms of Communications publicized on Unhappy Franchisee’s website, www.unhappyfranchisee.com.

17. “Identify” means:

- (i) With respect to a person, state to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in an Interrogatory response in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.
- (ii) With respect to a corporation, partnership, or other business or government entity, state the full name including any “dba” names and address of principal place of business;
- (iii) With respect to a communication, state name(s) of the speaker(s), the name each person spoken to or who otherwise heard the communication, the substance of the communication and the time and place of the communication;
- (iv) With respect to a document, state to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the documents, together with information sufficient to enable the requesting party to locate and identify them as readily as the responding party; and
- (v) With respect to an event or occasion, state the date(s) and time(s) at which it occurred or will occur, the location at which it occurred or will occur, and any witnesses to it or persons present or expected to be present at it.

INSTRUCTIONS

1. Answer each Interrogatory separately and fully. If You object to any Interrogatory, either in whole or in part, specifically identify the reason for the objection and identify all information responsive to any part to which no objection is asserted.

2. Unless otherwise noted, the applicable time frame for each Interrogatory is January 1, 2023 to the present.

3. Each of the Interrogatories shall be construed independently and not with reference to any of the others herein, unless so specified.

4. Whenever in the Interrogatories there is a request to “State the Basis” for a particular allegation, provide the following specific information as to each such allegation:

- (i) Set forth each and every fact upon which You base the allegation;
- (ii) Identify each Person with knowledge of the facts allegedly supporting or refuting the allegation;
- (iii) Set forth specifically the individual scope of knowledge of each Person identified;
- (iv) Identify all Documents or oral communications that You contend support or refute the allegation; and
- (v) Set forth all other matters that You relied upon either in making the allegation or formulating Your answer to the Interrogatory.

5. Unless otherwise noted, information called for by each Interrogatory is to be set forth in complete and full detail. If full and/or complete details are not available, each Interrogatory shall be deemed to require as much detail as available or accessible, including, where specific detail is not available or accessible, information concerning the nature of the detail not available and reasonable estimates (including the method by which each estimate is made) with respect to information sought.

6. The information sought in the following Interrogatories pertains to Your knowledge, as well as the knowledge and information available to you, including without limitation, information known by your attorneys, experts, consultants, and other agents.

7. If a Document once existed and subsequently has been lost, destroyed or is otherwise missing, provide sufficient information to identify the Document and state, in writing, the details, including whether the document:

- (i) is lost or missing;
- (ii) has been destroyed and, if so, by whom, at whose request and the reason the Document was destroyed;
- (iii) has been transferred or delivered, voluntarily or involuntarily, to another Person and at whose request; or
- (iv) has been otherwise disposed of.

8. In each instance in which a Document once existed and subsequently has been lost, destroyed, or otherwise disposed of, explain the circumstances surrounding the disposition of the Document, including but not limited to:

- (i) the identity of the Person who last possessed the Document;
- (ii) the date or approximate date of the Document's disposition; and
- (iii) the identities of all Persons who have or had knowledge of the Document's contents.

9. The Interrogatories are continuing in nature and if additional information is received or discovered after service of Your response, all such additional responsive information should be produced as it is received or discovered.

10. In order to bring within the scope of these Interrogatories any and all conceivably relevant and responsive matters which might otherwise be construed to be outside their scope:

- (i) The connectives "and" and "or" shall be read or applied as though interchangeable and construed so as to require the fullest and most complete disclosure of all requested information;
- (ii) The term "including" means "including, but not limited to;"
- (iii) The use of any tense of any verb shall also include within its meaning all other tenses of that verb;

- (iv) The word “all” means “any and all” and the word “any” means “any and all;”
- (v) The terms “all” and “each” shall be construed as “all and each;” and
- (vi) The use of the singular form of any word includes the plural and vice versa.

INTERROGATORIES

1. Identify all Persons who assisted or participated in responding to these Interrogatories.

RESPONSE:

2. Identify all Persons who searched for and/or produced documents in response to Plaintiff’s First Set of Requests for Production of Documents.

RESPONSE:

3. Identify all Persons having knowledge or information relating to the allegations contained in any pleading or paper You filed in this Action.

RESPONSE:

4. Identify all of Your shareholders, employees, officers, directors, and owners.

RESPONSE:

5. Identify all Former Franchisees with whom You have communicated Concerning Plaintiff or any of Your Blog Posts. For each Former Franchisee identified:

- a) Identify all dates on which the Communications took place;
- b) Identify all Persons participating in the Communications;

- c) Describe the purpose of the Communications; and
- d) Describe the subject matter of the Communications.

RESPONSE:

6. Identify all Current Franchisees with whom You have communicated Concerning Plaintiff or any of Your Blog Posts. For each current Franchisee identified:

- a) Identify all dates on which the Communications took place;
- b) Identify all Persons participating in the Communications;
- c) Describe the purpose of the Communications; and
- d) Describe the subject matter of the Communications.

RESPONSE:

7. Identify all franchise brokers, franchise promoters, or franchise marketers with whom You have communicated Concerning Plaintiff or any of Your Blog Posts. For each such Person identified:

- a) Identify all dates on which the Communications took place;
- b) Identify all Persons participating in the Communications;
- c) Describe the purpose of the Communications; and
- d) Describe the subject matter of the Communications.

RESPONSE:

8. Identify all former and current employees with whom You have communicated Concerning Plaintiff or any of Your Blog Posts. For each former and current employee identified:

- a) Identify all dates on which the Communications took place;
- b) Identify all Persons participating in the Communications;

- c) Describe the purpose of the Communications; and
- d) Describe the subject matter of the Communications.

RESPONSE:

9. Identify all electronic mail domains and email addresses operated by Unhappy Franchisee and Kelly between January 1, 2023 and the present.

RESPONSE:

10. Identify all lawsuits, arbitrations, or other legal proceedings between You and any other Person or Persons concerning any Blog Posts made by You, between January 1, 2020 and the present.

RESPONSE:

11. State the Basis for Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts are "protected by the Pennsylvania Uniform Public Expression Protection Act ("UPEPA")."

RESPONSE:

12. State the Basis for Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts are "protected by the First and Fourteenth Amendments to the Constitution of the United States and Article I, Section 7 of the Pennsylvania Constitution."

RESPONSE:

13. State the Basis for Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts were made "for a justifiable journalistic purpose."

RESPONSE:

14. State the Basis for Your statement in the Blog Posts that certain Current Franchisees and/or Former Franchisees were struggling to purchase Christmas gifts for his or her children.

RESPONSE:

15. State the Basis for Your statement in the Blog Posts that Alex and/or Amanda Gingold flew to the Bahamas in a private jet.

RESPONSE:

16. State the Basis for Your statement in the Blog Posts that Plaintiff and its owners are or were "destroying people's lives" and/or "hurting people."

RESPONSE:

17. State the Basis for Your statement in the Blog Posts that one-half of Plaintiff's franchisees were failing.

RESPONSE:

18. State the Basis for Your statement in the Blog Posts that Plaintiff and/or its owners are the "victims of bad advisors."

RESPONSE:

19. State the Basis for Your statement in the Blog Posts that Plaintiff's business is a "money grab" and/or a "Ponzi scheme."

RESPONSE:

20. Identify all Persons who provided You with any Franchise Disclosure Statement, Franchise Agreement, or Franchise Addendum of Plaintiff.

RESPONSE:

21. Identify all blog posts, articles, news reports, investigation reports, and other postings made by Kelly or Unhappy Franchisee, other than the Blog Posts, between January 1, 2020 and the present.

RESPONSE:

22. Identify all organizations to which You subscribe, are a member, or are otherwise affiliated demonstrating or otherwise evidencing Unhappy Franchisee's status as a media outlet.

RESPONSE:

23. Identify all Persons whom You expect to call as witnesses at the trial in this action and set forth the substance of their expected testimony.

RESPONSE:

24. Identify all persons having knowledge or information Concerning any of the allegations in Your Counterclaim, and/or any of Your Defenses.

RESPONSE:

25. Identify all insurance policies and agreements under which an insurance company may be liable to satisfy all or part of a possible judgment in this action, or to indemnify or reimburse for payments made to satisfy said judgment. For each policy or agreement identified, state (a) whether the insurer has been notified of Plaintiff's claims, and (b) the insurer's response, if any.

RESPONSE:

26. State whether You have conducted any investigation(s) Concerning in any way the subject matter of this Action and, if so, state the following with respect to each such investigation:

- (a) The date of such investigation(s);
- (b) The name, address and job title of each Person who conducted or otherwise participated in such investigation(s);
- (c) The identity of all those contacted in the course of the investigation(s);
- (d) The findings of each such investigation; and
- (e) Whether any written materials were prepared in connection with each such investigation and, if so, the name and address of the person who has custody of such records.

RESPONSE:

27. If You have engaged, or expect to engage, any expert witnesses whom You intend to have testify at the trial of this action on your behalf on any matter pertaining to this action, state:

- (a) The name of the expert;
- (b) The expert's occupation and professional address;
- (c) The expert's specialty and/or qualifications;
- (d) The topic or subject matter upon which the expert is expected to testify;
- (e) The substance of the facts and opinions to which the expert is expected to testify; and
- (f) A summary of the grounds or foundation for each opinion the expert is expected to testify about.

RESPONSE:

Dated: April 28, 2025

**KLEHR HARRISON
HARVEY BRANZBURG LLP**

/s/ D. Joseph Ferris
D. Joseph Ferris
William J. Clements
1835 Market Street, 14th Floor
Philadelphia, PA 19103
(215) 569-2700

*Attorneys for Plaintiff,
DonutNV Franchising, Inc.*

CERTIFICATE OF SERVICE

I, D. Joseph Ferris, hereby certify that on April 28, 2025, I caused a true and correct copy of the foregoing First Request for Interrogatories to be served via first-class mail and electronic mail to counsel of record as follows:

Brandon S. Harter, Esq.
c/o Sean Kelly and
Relentless, Inc. t/d/b/a Unhappy Franchisee
brandon@lancastertechlaw.com
Attorneys for Defendants

Dated: April 28, 2025

/s/ D. Joseph Ferris
D. Joseph Ferris
Attorneys for Plaintiff,
DonutNV Franchising, Inc.