

DONUTNV FRANCHISING, INC., : COURT OF COMMON PLEAS
: LANCASTER COUNTY

LANCASTER COUNTY

CIVIL ACTION

Docket No. 25-00737

:

ORDER

AND NOW this _____ day of _____, 2025, upon consideration of Plaintiff's Motion for an Order (i) striking Defendants Sean Kelly and Relentless, Inc.'s ("Defendants") objections to Plaintiff's First Set of Requests for the Production of Documents Directed to Defendants (the "Document Requests") and First Request for Interrogatories Directed to Defendants (the "Interrogatories" and, together with the Document Requests, the "Discovery Requests"); (ii) compelling full and complete responses from Defendants to Plaintiff's Discovery Requests; and (iii) scheduling a conference for the purposes of establishing a case management order to guide the completion of pre-trial discovery and to discuss any anticipated issues among counsel in this matter, it is hereby ORDERED AND DECREED that the Motion is GRANTED; and

IT IS FURTHER ORDERED that Defendants' objections to Plaintiff's Discovery Requests are STRICKEN; and

IT IS FURTHER ORDERED that Defendants shall separately provide full and complete responses to the Discovery Requests, along with an accompanying production of documents, within ten (10) days of this Order or appropriate sanctions may be imposed on Defendants upon Plaintiff's further application to the Court; and

IT IS FURTHER ORDERED that a scheduling conference is scheduled to occur at ____:____
am/pm on _____, 2025, for the purposes of establishing a case management
order to guide the completion of pre-trial discovery and to discuss any anticipated issues among
counsel in this matter.

BY THE COURT:

J.

**KLEHR HARRISON HARVEY
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DONUTNV FRANCHISING, INC.,

Plaintiff,

VS.

SEAN KELLY and RELENTLESS, INC.
t/d/b/a UNHAPPY FRANCHISEE,

Defendants,

:
 : COURT OF COMMON PLEAS
 : LANCASTER COUNTY
 :
 : CIVIL ACTION
 :
 :
 : Docket No. 25-00737

**PLAINTIFF'S MOTION TO STRIKE OBJECTIONS AND COMPEL ANSWERS
TO PLAINTIFF'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF
DOCUMENTS DIRECTED TO DEFENDANTS AND PLAINTIFF'S
FIRST REQUEST FOR INTERROGATORIES DIRECTED TO DEFENDANTS**

Plaintiff, DonutNV Franchising, Inc. (“Plaintiff” or “DonutNV”), through its undersigned attorneys, moves for an Order (i) striking Defendants Sean Kelly and Relentless, Inc.’s (collectively, the “Defendants”) objections to *Plaintiff’s First Set of Requests for the Production of Documents Directed to Defendants* (the “Document Requests”) and *Plaintiff’s First Request for Interrogatories Directed to Defendants* (the “Interrogatories” and, together with the Document Requests, the “Discovery Requests”); (ii) compelling Defendants to provide full and complete responses to the Discovery Requests, including the production of documents; and (iii) scheduling a conference for the purposes of establishing a case management order to guide the completion of

pre-trial discovery and to discuss any anticipated issues among counsel in this matter. In support of its motion, Plaintiff states the following:

1. This case is about extortion disguised as online journalism.
2. Plaintiff's claims against Defendants center on Defendants' wrongful scheme to extort money from Plaintiff by using Defendants' website known as Unhappy Franchisee (the "Website") to post untrue, false, and defamatory statements and information; publicly disseminating these statements on Defendants' Website and further transmitting these statements to third parties for the purpose of interfering with and harming the existing and prospective business relationships between Plaintiff and participants in the franchise industry; and then offering to remove the untrue, false, and defamatory statements from the Website in exchange for the payment of money — disguised as a purported "consulting fee." *See* Cmplt. at ¶¶ 1-6.
3. In Defendants' Answer with New Matter and Counterclaim (the "Answer"), in response to Plaintiff's allegations that Defendants "purport to post materials supposedly to alert individuals and businesses who may be interested in owning a franchise about franchises that Kelly and Relentless allege to have engaged in misconduct or unethical business practices," Defendants admit in part that "Relentless publishes the opinions and experiences submitted to it by current or former franchisees," and that "[t]hese opinions and experiences are published as submissions from third parties, not as facts." *Compare* Cmplt. at ¶ 18 to Answer at ¶ 18.
4. But this is only partially accurate at best: Defendants cherry-pick which third-party submissions to publish; modify third-party submissions in certain cases; and directly post on their Website their own false and negative information concerning Plaintiff's business operations.
5. In Defendants' Answer, in response to Plaintiff's allegations that "the purpose of Kelly's and Relentless' business is not to inform and/or protect prospective franchisees but, rather,

to target franchisors by posting scandalous, defamatory, and otherwise untrue statements and information about them, and when contacted by the targeted franchisors, to demand payment (sometimes in the form of “consulting fees”) as a *quid pro quo* to remove the posts,” Defendants denied the allegations and indicated that “[t]he Website is to provide transparency in the franchise process.” *Compare* Cmplt. at ¶ 19 to Answer at ¶ 19.

6. This response from Defendants is also patently false, and Plaintiff seeks targeted discovery to prove it.

7. On or about April 28, 2025, Plaintiff served Defendants with the Discovery Requests, true and correct copies of which are attached hereto and incorporated herewith as **Exhibit “A”** and **“B”**.

8. Pursuant to Pa.R.C.P. 4006 and 4009, Defendants’ responses to the Discovery Requests were due within 30 days of service, *i.e.*, no later than May 28, 2025.

9. On May 29, 2025, Defendants served Plaintiff with Defendants’ Objections and Responses to Plaintiff’s Interrogatories and Request for Production of Documents (collectively, the “Discovery Responses”), a true and correct copy of which is attached hereto as **Exhibit “C”**.

10. Defendants’ Discovery Responses consist primarily of objections aimed at preventing Plaintiff from proving its affirmative claims and disproving Defendant’s Counterclaim.

11. Defendants produced no substantive information or documentation in their Discovery Responses. Instead of demonstrating the “transparency in the franchise process” and sharing the requested relevant and discoverable information about “the opinions and experiences submitted to it by current or former franchisees” (which Defendants claim is the purpose of Defendants’ Website), Defendants instead chose to interpose objections, asserting inapplicable theories of confidentiality and privilege.

12. By letter dated June 2, 2025, Plaintiff set forth detailed deficiencies in Defendants' Discovery Responses and document production (lack thereof), and along with Plaintiff's reasoning as to why Defendants' objections are without merit (the "Deficiency Letter"). A true copy of Plaintiff's Deficiency Letter is attached hereto and incorporated herewith as **Exhibit "D"**.

13. As Plaintiff is incorporating by reference the entirety of its Deficiency Letter (*See Exhibit "D"*), Plaintiff will not repeat all of that letter's context within the body of this motion. The crux of the Deficiency Letter is that all of Defendants' objections lack merit, and that Defendants must cure their failure to produce any responsive documentation to Plaintiff's Document Requests, or to provide any substantive responses to Plaintiff's Interrogatories. The following paragraphs provide a summary from Plaintiff's Deficiency Letter.

14. Defendants assert a general objection that the Discovery Requests "are an effort to chill the valid exercise of protected public expression in violation of the Uniform Public Expression Protection Act, 42 C.S.A. §§ 8340.11, *et seq.* ("UPEPA"). *See, e.g., Exhibit C* at p.1, ¶2. As stated in more detail in Plaintiff's Deficiency Letter, Defendants' objection should be stricken. Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings — discovery requests themselves do not violate the UPEPA. Likewise, the argument that participating in discovery will have a "chilling effect" is without merit and also conflates the underlying legal question with the legal discovery necessary to establish that question.

15. In the Interrogatories, Plaintiff seeks "all Former Franchisees with whom You have communicated concerning Plaintiff or any of Your Blog Posts . . ." *See Exhibit "A"* at ¶5. Defendants responded with an objection, citing *DiPaolo v. Times Publishing Co.*, 142 A.3d 837 (Pa. Super. Ct. 2016) for the proposition that the Interrogatory "seeks to violate the confidential

and privileged relationship between reporters and their sources,” and Defendants further object that the Interrogatory is overly broad and burdensome; that the interrogatory seeks information that is sought for the improper purpose of punishing protected public expression in violation of the UPEPA; and that the disclosure of such information will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise. *See Exhibit C* at ¶5. Defendants incorporated this objection into the bulk of their Discovery Responses. *See Exhibit C, pages 3-8, ¶¶5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 19, 20, 21, 24.* Defendants further repeat these objections as the asserted basis for Defendants’ failure to produce any responsive documents to the majority of Plaintiff’s Document Demands. *See Exhibit C, pages 9-15, ¶¶1, 2, 5, 6, 7, 8, 9, 11, 18, 19, 20, 21, 22, 23, 27, 29.*

16. As stated in more detail in the Deficiency Letter (**Exhibit D**), Defendants’ objections should be stricken. First, a blanket assertion of privilege is insufficient. Defendants have failed to establish the factual basis necessary for this assertion and otherwise failed to show that their communications are privileged. Defendants have not sufficiently established any evidence of their status as a journalist and admit that they have no membership in or affiliation with any media organization. *See Exhibit “C”* at ¶22.

17. Nor have Defendants shown that their communications with DonutNV’s business partners were confidential or made with any expectation of confidentiality necessary to invoke a reporter’s privilege. In fact, Defendants’ own Website demonstrates a pattern of identifying specific DonutNV franchisees and franchise brokers by name—for example, identifying Nicole Porretto-Brown and Scott Brown of Las Vegas, Nevada, Marshall Moore and Elizabeth Moore of Roswell, Georgia, and Andrew Nessler and Christine Nessler of North Mankato, Minnesota as franchisees; and identifying Jake Hamburger and Jennifer Cain of Franchise Fastland, and Mark

Schnurman and Brandon Siegfried of The Perfect Franchise, as franchise brokers, promoters and/or marketers. Defendants cannot choose to disclose DonutNV's business partners when it sues them and then claim that those same business partners' identities are confidential when asked about them in Interrogatories. This pattern of public disclosure contradicts any potential asserted claim of privileged communications.

18. Second, Defendants' claim that the Interrogatories and Document Requests are "overly broad and burdensome" is erroneous. The information requested pertains only to the small number of DonutNV's business partners who have communicated with Defendants, and bears directly on the subject matter of this litigation.

19. Third, and as stated above in response to Defendants' general objection based on the UPEPA, Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate the UPEPA. Likewise, the argument that participating in discovery will have a "chilling effect" is without merit, and conflates the underlying legal question with the legal discovery necessary to establish that question.

20. When asked to "[s]tate the Basis for Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts are 'protected by the Pennsylvania Uniform Public Expression Protection Act ("UPEPEA")'", Defendants responded by interposing an objection on the grounds that "[i]nterrogatories that generally require the responding party to state the basis of particular contentions made in the pleadings or other documents should be used sparingly and, if used, should target claims, defenses, or contentions that the propounding attorney reasonably suspects may be the proper subjects of early dismissal or resolution or may be used to identify the scope of unclear claims. Pa.R.C.P. 4003.1 (notes)." See **Exhibit "C"**, pg. 4 at ¶11. Defendants further objected that "[t]his request is not reasonably targeted to claims subject to early dismissal, to advance early

resolution, or to identify the scope of unclear claims.” *Id.* Defendants also refer Plaintiff to Defendants’ Answer for “the basis of this claim.” *Id.* Defendants repeat this response to other responses to Plaintiff’s Interrogatories. *See Exhibit “C”, pages 5-8, ¶¶12, 13.* Defendants further repeat this response as the asserted basis for Defendants’ failure to produce any responsive documents to the majority of Plaintiff’s Document Demands. *See Exhibit “C”, pages 9-15, ¶¶13, 14, 15, 18, 19, 20, 21, 22, 23, 27, 29.*

21. Defendants’ objections should be overruled. 231 Pa. Code. r. 4003.1(c) provides that “it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.” Furthermore, Defendants’ reference to their pleadings is inadequate because their Answer contains only conclusory legal allegations without any underlying factual basis necessary to evaluate their UPEPA claim. This information is necessary for Plaintiff to conduct focused discovery and properly evaluate the merits of Defendants’ claims.

22. When asked to “[s]tate whether You have conducted any investigation(s) Concerning in any way the subject matter of this Action . . .”, Defendants responded by interposing an objection on the grounds that “[t]his request seeks information protected from disclosure by the attorney-client privilege. Pa.R.C.P. 4003.3.” Defendants further stated, “[w]ithout waiving this objection, any investigation conducted by Mr. Kelly was for the purpose of defending this lawsuit and communicating with legal counsel.” *Compare Exhibit “A” at ¶ 26 to Exhibit “C”, p.8, ¶26.*

23. As stated in more detail in the Deficiency Letter (**Exhibit “D”**), these objections also should be overruled. Investigative activities themselves are not protected by any privilege where the underlying factual investigations preceded the commencement of litigation. Second, even if these interrogatories did occur after the commencement of litigation, the privilege protects

communications seeking or providing legal advice, not pure fact-gathering activities, which are at issue here. Even if this were not the case, Defendants' blanket assertion of attorney-client privilege is overbroad and unsupported by facts. "The party invoking a privilege must initially set forth facts showing that the privilege has been properly involved." *Knopick v. Boyle*, 2018 PA Super 140, 189 A.3d 432, 439 (Pa. Super. 2018).

24. When asked to produce Defendants' federal and state tax returns for the years 2020, 2021, 2022, 2023, and 2024", Defendants responded by interposing an objection on the grounds that these requests seek irrelevant information and are not reasonably calculated to lead to the discovery of admissible evidence pursuant to Pa.R.C.P. 4003.1. Defendants also objected on the grounds that these requests attempt to "prematurely seek discovery of assets in aid of execution. *Compare Exhibit "A" at ¶¶25-26, to Exhibit "C", pg.14, ¶¶25-26.*

25. As stated in more detail in the Deficiency Letter (**Exhibit "D"**), Defendants' objections should be overruled. Defendants' tax returns include information relevant to Defendants' business operations and the scope of their activities related to the claims in this case.

26. At the conclusion of the Deficiency Letter (**Exhibit "D" at p.12**), Plaintiff states, "[t]o enable DonutNV to determine whether motion practice is necessary, please respond to this letter within **five business days** (*i.e.* by **Monday, June 9th, 2025**) with Defendants' assurance that they will cure the deficiencies set forth above within **ten business days** of this letter (*i.e.* by **June 16, 2025**). We hope to avoid judicial intervention."

27. As of this motion, neither Defendants nor their counsel has communicated with Plaintiff's counsel in any respect.

28. Accordingly, Plaintiff requests an Order striking Defendants Sean Kelly and Relentless, Inc.'s objections to Plaintiff's First Set of Requests for the Production of Documents

Directed to Defendants and Plaintiff's First Request for Interrogatories Directed to Defendants; to compel full and complete responses from Defendants to Plaintiff's Document Demands and to Plaintiff's Interrogatories; and to schedule a conference for the purposes of establishing a case management order to guide the completion of pre-trial discovery and to discuss any anticipated issues among counsel in this matter, and for such other or further relief as the Court deems necessary.

WHEREFORE, Plaintiff requests that this Court enter the proposed Order attached hereto.

Dated: June 18, 2025

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

By: /s/ D. Joseph Ferris

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EXHIBIT A

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DONUTNV FRANCHISING, INC.,

Plaintiff,

v.

SEAN KELLY and RELENTLESS, INC.
t/d/b/a UNHAPPY FRANCHISEE,

Defendants.

:
: COURT OF COMMON PLEAS
: LANCASTER COUNTY
:
: CIVIL ACTION
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: Docket No. 25-00737
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**PLAINTIFF'S FIRST REQUEST FOR
INTERROGATORIES DIRECTED TO DEFENDANTS**

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.

DEFINITIONS

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.

EXHIBIT B

Klehr Harrison Harvey Branzburg LLP

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
jfferris@klehr.com
wclements@klehr.com

DONUTNV FRANCHISING, INC.,

Plaintiff,

v.

SEAN KELLY and RELENTLESS, INC.
t/d/b/a UNHAPPY FRANCHISEE,

Defendants.

:
: COURT OF COMMON PLEAS
: LANCASTER COUNTY
:
: CIVIL ACTION
:
: Docket No. 25-00737

**PLAINTIFF'S FIRST SET OF REQUESTS FOR THE
PRODUCTION OF DOCUMENTS DIRECTED TO DEFENDANTS**

Plaintiff DonutNV Franchising, Inc., through its undersigned attorneys, pursuant to Rule 4009.11 of the Pennsylvania Rules of Civil Procedure, hereby requests that defendants Sean Kelly and Relentless, Inc. t/d/b/a Unhappy Franchisee respond in writing to the below requests for production of documents (the "Requests") and produce the documents identified in the Requests within thirty days from service hereof.

DEFINITIONS

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.

INSTRUCTIONS

1. Answer each Request separately and fully. If You object to any Request, either in whole or in part, specifically identify the reason for the objection and produce all documents responsive to any part to which no objection is asserted. If no responsive documents exist, state so in writing.

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

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

4. Produce all responsive Documents in Your possession, custody, or control, even if these Documents are not in Your actual possession. This includes Documents and information held by third parties which You are able to obtain, including but not limited to your agents, members, attorneys, accountants, Former Franchisees, and Current Franchisees.

5. If the original of a Document is within Your possession, custody, or control, produce it; if not, produce such a copy of it as is in Your possession, custody, or control. Any copy of a Document on which any notation, addition, alteration, or change has been made is to be treated as an additional and different original Document.

6. All Documents shall be produced as they are kept or maintained in the ordinary course of business. All Documents shall be produced in the file folder, envelope or other container in which the Documents are kept or maintained. If for any reason the container cannot be

produced, produce copies of all labels or other identifying marks which may be present on the container.

7. All ESI shall be produced in the following formats: single-page TIFF (Group IV B&W, or JPGs for Color); multi-page TXT; DAT files for metadata; OPT files for images; Excels and other files that are not easily convertible should be produced natively with a placeholder in the images.

8. With respect to any email or other messages produced, produce all attachments to that email and all other email messages in the email chain (*i.e.*, any previous email message(s) to which the produced email message replied, and any subsequent email message(s) replying to the produced email message).

9. Documents attached to each other should not be separated. If any portion of any Document is responsive to any paragraph or subparagraph of the Requests, then the entire Document must be produced.

10. 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.

11. 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.

12. If any Document or portion thereof responsive to any of the Requests is withheld under a claim of privilege or work product, state the Request to which the Document relates and furnish a log identifying each Document for which the privilege or work product is claimed, together with the following information for each such Document:

- (i) a sequential number associated with each Privilege Log record;
- (ii) the Bates numbers of any Documents redacted;
- (iii) the identity (and title, if practicable), of all Persons who authored, signed or otherwise prepared the Document, and identification of which of them are attorneys;
- (iv) the identity of all Persons designated as addressees, copies or blind copies;
- (v) the title or subject of each Document;
- (vi) a description of the contents of the Document that, without revealing information itself privileged or protected, is sufficient to understand the subject matter of the Document and the basis of the claim of privilege or immunity; and
- (vii) the type or nature of the privilege asserted (*e.g.*, attorney-client privilege, work-product doctrine).

13. Each requested Document should be produced in its entirety and without deletion, redaction or excision, except for those Documents containing information protected from production by the attorney-client privilege or work-product doctrine and disclosed on a privilege log, regardless of whether you consider the entire Document or only part of it to be relevant or responsive to these Requests.

14. Each page of every Document produced shall be given a discrete production number.

15. The Requests are continuing in nature and if additional Documents are received or discovered after production, all such additional responsive Documents should be produced as they are received or discovered.

16. In order to bring within the scope of these Requests any and all conceivably relevant and responsive matters or Documents 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 Documents;
- (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.

REQUESTS FOR PRODUCTION

Please produce the following:

1. All Documents supporting or Concerning the factual allegations set forth in the Counterclaim.

RESPONSE:

2. All Documents supporting or Concerning Your Defenses.

RESPONSE:

3. All Documents that You referenced or relied on in formulating Your response to Plaintiff's First Set of Interrogatories.

RESPONSE:

4. The name, address, and telephone number of all Persons who provided information Concerning or with whom You otherwise Communicated Concerning Your Responses to these Requests.

RESPONSE:

5. All Documents and Communications exchanged between You, on the one hand, and all Former Franchisees, on the other hand, which informed, relates to, or otherwise Concerns any of Your Blog Posts Concerning Plaintiff.

RESPONSE:

6. All Documents and Communications exchanged between You, on the one hand, and all Current Franchisees, on the other hand, which informed, relates to, or otherwise Concerns any of Your Blog Posts Concerning Plaintiff.

RESPONSE:

7. All Documents and Communications exchanged between You, on the one hand, and all third-parties, on the other hand, which informed, relates to, or otherwise Concerns any of Your Blog Posts Concerning Plaintiff.

RESPONSE:

8. All Documents and Communications reflecting all prior drafts, revisions, deletions, additions, and modifications to Your Blog Posts, whether prepared by You, Former Franchisees, Current Franchisees, or any other third-parties.

RESPONSE:

9. All Documents and Communications exchanged between You and Plaintiff between January 1, 2024 and the present.

RESPONSE:

10. All Documents and Communications exchanged between You and Plaintiff's counsel or all Persons purporting to act on Plaintiff's behalf between January 1, 2024 and the present.

RESPONSE:

11. All Documents and Communication exchanged between You and any third-parties which are the subject of or otherwise referenced in any Blog Posts concerning consultation services or settlement.

RESPONSE:

12. All Documents reflecting or Concerning all revenue derived from Your Blog Posts (which relating to Plaintiff or third-parties) between January 1, 2020 and the present.

RESPONSE:

13. All Documents or Communications demonstrating or otherwise evidencing Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts are "protected by the Pennsylvania Uniform Public Expression Protection Act ("UPEPA")."

RESPONSE:

14. All Documents or Communications demonstrating or otherwise evidencing 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:

15. All Documents or Communications demonstrating or otherwise evidencing Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts were made "for a justifiable journalistic purpose."

RESPONSE:

16. All Communications from Unhappy Franchisee and Kelly Concerning any Blog Posts relating to Plaintiff.

RESPONSE:

17. All Documents reflecting any money, revenue, or other remunerations received from any Person relating to any of Your Blog Posts Concerning Plaintiff.

RESPONSE:

18. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that any Current Franchisee or Former Franchisee was struggling to purchase Christmas gifts for his or her children.

RESPONSE:

19. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that Alex and/or Amanda Gingold flew to the Bahamas in a private jet.

RESPONSE:

20. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that Plaintiff and its owners are or were “destroying people’s lives” and/or “hurting people.”

RESPONSE:

21. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that one-half of Plaintiff’s franchisees were failing.

RESPONSE:

22. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that Plaintiff and/or its owners are the “victims of bad advisors.”

RESPONSE:

23. All Communications between You and any franchise brokers, promoters, or marketers Concerning Plaintiff between January 1, 2023 and the present.

RESPONSE:

24. All Documents reflecting or otherwise evidencing Your corporate structure, including but not limited to, an organizational chart, evidence of minutes of regular meetings, and operating agreements.

RESPONSE:

25. Unhappy Franchisee's federal and state tax returns for tax years 2020, 2021, 2022, 2023, and 2024.

RESPONSE:

26. Kelly's federal and state tax returns for tax years 2020, 2021, 2022, 2023, and 2024.

RESPONSE:

27. All Documents and Communications reflecting any evidence demonstrating Your assertion that Plaintiff's business is a "money grab" and/or a "Ponzi scheme."

RESPONSE:

28. All Documents evidencing Your alleged damages.

RESPONSE:

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

RESPONSE:

30. A copy of any insurance policy or agreement 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.

RESPONSE:

31. All Documents containing or Concerning any statement (as defined by Rule 4003.4 of the Pennsylvania Rules of Civil Procedure) Concerning any matter relating to this Action.

RESPONSE:

32. All Documents or exhibits that You intend to use at any hearing, deposition, or trial in this Action.

RESPONSE:

33. All Documents containing or Concerning any lay opinion You intend to introduce at any hearing or the trial in this Action.

RESPONSE:

34. All Documents containing or Concerning any investigation(s) Concerning in any way the subject matter of this Action.

RESPONSE:

35. All reports and curricula vitae of all expert witnesses whom You intend to have testify at any hearing or the trial in this Action.

RESPONSE:

**KLEHR HARRISON
HARVEY BRANZBURG LLP**

Dated: April 28, 2025

/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 Request for Production of Documents 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.

EXHIBIT C

LANCASTER TECH LAW PLLC
3004 Hempland Road, Suite 3
Lancaster, PA 17601
(717) 606-1400

Brandon S. Harter, Esquire
Attorney No. 307676
brandon@lancastertechlaw.com

Jackie Boylhart, Esquire
Attorney No. 332668
jackie@lancastertechlaw.com

Representing Defendants Relentless, Inc. and Sean Kelly

IN THE COURT OF COMMON PLEAS FOR LANCASTER COUNTY

DONUTNV FRANCHISING, INC.,
Plaintiff

v.

RELENTLESS, INC. AND SEAN KELLY,
Defendants

Case No. CI-25-00737

**DEFENDANTS' OBJECTIONS AND
RESPONSES TO PLAINTIFF'S
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS**

Defendants Relentless, Inc., and Sean Kelly, through the undersigned counsel, respond to the discovery requests by Plaintiff DonutNV Franchising, Inc., as follows.

I. GENERAL OBJECTIONS

1. Defendants reserve all objections that can be reserved under the applicable procedural rules. By responding to any request, Defendants are not intending to waive any objections to that request, including its relevance or the burden it imposes.

2. Defendants object to DonutNV's discovery requests because they are an effort to chill the valid exercise of protected public expression in violation of the Uniform Public Expression Protection Act, 42 Pa. C.S.A. §§ 8340.11, *et seq.*

II. INTERROGATORIES

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

RESPONSE: Sean Kelly.

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

RESPONSE: Sean Kelly.

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

RESPONSE: Sean Kelly.

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

RESPONSE: Sean Kelly.

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: Objection. Defendants object to this request because it seeks to violate the confidential and privileged relationship between reporters and their sources. *DiPaolo v. Times Publishing Co.*, 142 A.3d 837 (Pa. Super. Ct. 2016). Defendants also object that this request is overly broad and unduly burdensome because it is without any reasonable time or subject matter restrictions. Defendants also object that this information is sought for the

improper purpose of punishing protected public expression in violation of the Uniform Public Expression Protection Act (the "UPEPA"), 42 Pa. C.S.A. §§ 8340.11, *et seq.* By way of further response, the disclosure of such information will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

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: Defendants incorporate by reference their response to Interrogatory 5.

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: Defendants incorporate by reference their response to Interrogatory 5.

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: Defendants incorporate by reference their response to Interrogatory 5.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

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: None.

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: Objection. Interrogatories that generally require the responding party to state the basis of particular contentions made in the pleadings or other documents should be used sparingly and, if used, should target claims, defenses, or contentions that the propounding attorney reasonably suspects may be the proper subjects of early dismissal or resolution or may be used to identify the scope of unclear claims. Pa. R.C.P. 4003.1 (notes). This request is not reasonably targeted to claims subject to early dismissal,

to advance early resolution, or to identify the scope of unclear claims. Without waiving this objection, the basis for this claim is stated in Defendants' Answer with New Matter and Counterclaim.

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: Defendants incorporate by reference their response to Interrogatory 11.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 11.

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: Defendants incorporate by reference their response to Interrogatory 5.

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: Defendants incorporate by reference their response to Interrogatory 5.

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: Defendants incorporate by reference their response to Interrogatory 5.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

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: Defendants incorporate by reference their response to Interrogatory 5.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

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: All posts in connection with the Website from January 1, 2020, through the present remain available to the public on the Website.

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: None.

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: Defendants have not determined the witnesses they intend to call at trial.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5. Without waiving those objections, Sean Kelly.

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: None.

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: Objection. This request seeks information protected from disclosure by the attorney-client privilege. Pa. R.C.P. 4003.3. Without waiving this objection, any investigation conducted by Mr. Kelly was for the purpose of defending this lawsuit and communicating with legal counsel.

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: Defendants have not determined if they will have a testifying expert witness at trial.

III. REQUEST FOR PRODUCTION OF DOCUMENTS

1. All Documents supporting or Concerning the factual allegations set forth in the Counterclaim.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5. Without waving those objections, DonutNV's violation of the UPEPA arise from their filings in this case.

2. All Documents supporting or Concerning Your Defenses.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5. Without waving those objections, DonutNV's violation of the UPEPA arise from their filings in this case.

3. All Documents that You referenced or relied on in formulating Your response to Plaintiff's First Set of Interrogatories.

RESPONSE: None.

4. The name, address, and telephone number of all Persons who provided information Concerning or with whom You otherwise Communicated Concerning Your Responses to these Requests.

RESPONSE: Mr. Kelly can be contacted through his legal counsel.

5. All Documents and Communications exchanged between You, on the one hand, and all Former Franchisees, on the other hand, which informed, relates to, or otherwise Concerns any of Your Blog Posts Concerning Plaintiff.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

6. All Documents and Communications exchanged between You, on the one hand, and all Current Franchisees, on the other hand, which informed, relates to, or otherwise Concerns any of Your Blog Posts Concerning Plaintiff.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

7. All Documents and Communications exchanged between You, on the one hand, and all third-parties, on the other hand, which informed, relates to, or otherwise Concerns any of Your Blog Posts Concerning Plaintiff.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

8. All Documents and Communications reflecting all prior drafts, revisions, deletions, additions, and modifications to Your Blog Posts, whether prepared by You, Former Franchisees, Current Franchisees, or any other third-parties.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

9. All Documents and Communications exchanged between You and Plaintiff between January 1, 2024 and the present.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

10. All Documents and Communications exchanged between You and Plaintiff's counsel or all Persons purporting to act on Plaintiff's behalf between January 1, 2024 and the present.

RESPONSE: Objection. Defendants object to this request as an unreasonable burden and expense. Plaintiff and Plaintiff's counsel already possess communications between Defendants and themselves.

11. All Documents and Communication exchanged between You and any third-parties which are the subject of or otherwise referenced in any Blog Posts concerning consultation services or settlement.

RESPONSE: Defendants incorporate by reference their response to Interrogatory 5.

12. All Documents reflecting or Concerning all revenue derived from Your Blog Posts (which relating to Plaintiff or third-parties) between January 1, 2020 and the present.

RESPONSE: None.

13. All Documents or Communications demonstrating or otherwise evidencing Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts are "protected by the Pennsylvania Uniform Public Expression Protection Act ("UPEPA")."

RESPONSE: Defendants incorporate by reference their response to Interrogatory 11.

14. All Documents or Communications demonstrating or otherwise evidencing 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: Defendants incorporate by reference their response to Interrogatory 11.

15. All Documents or Communications demonstrating or otherwise evidencing Your allegation in the Counterclaim that Unhappy Franchisee's Blog Posts were made "for a justifiable journalistic purpose."

RESPONSE: Defendants incorporate by reference their response to Interrogatory 11.

16. All Communications from Unhappy Franchisee and Kelly Concerning any Blog Posts relating to Plaintiff.

RESPONSE: No communications exist between Mr. Kelly and himself.

17. All Documents reflecting any money, revenue, or other remunerations received from any Person relating to any of Your Blog Posts Concerning Plaintiff.

RESPONSE: None.

18. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that any Current Franchisee or Former Franchisee was struggling to purchase Christmas gifts for his or her children.

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

19. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that Alex and/or Amanda Gingold flew to the Bahamas in a private jet.

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

20. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that Plaintiff and its owners are or were “destroying people’s lives” and/or “hurting people.”

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

21. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that one-half of Plaintiff's franchisees were failing.

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

22. All Documents or Communications which informed, or which otherwise Concerns the statement in Your Blog Post that Plaintiff and/or its owners are the "victims of bad advisors."

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

23. All Communications between You and any franchise brokers, promoters, or marketers Concerning Plaintiff between January 1, 2023 and the present.

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

24. All Documents reflecting or otherwise evidencing Your corporate structure, including but not limited to, an organizational chart, evidence of minutes of regular meetings, and operating agreements.

RESPONSE: Objection. This request seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Pa. R.C.P. 4003.1(a). Without waiving this objection, Relentless, Inc., is a solely owned entity and for that reason does not maintain written records apart from its Articles of Incorporation which are equally available to Plaintiff and Defendants from the Pennsylvania Department of State.

25. Unhappy Franchisee's federal and state tax returns for tax years 2020, 2021, 2022, 2023, and 2024.

RESPONSE: Objection. This request seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Pa. R.C.P.

4003.1(a). This request also attempts to prematurely seek discovery of assets in aid of execution. Pa. R.C.P. 3117.

26. Kelly's federal and state tax returns for tax years 2020, 2021, 2022, 2023, and 2024.

RESPONSE: Objection. This request seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Pa. R.C.P. 4003.1(a). This request also attempts to prematurely seek discovery of assets in aid of execution. Pa. R.C.P. 3117.

27. All Documents and Communications reflecting any evidence demonstrating Your assertion that Plaintiff's business is a "money grab" and/or a "Ponzi scheme."

RESPONSE: Defendants incorporate by reference their responses to Interrogatories 5 and 11.

28. All Documents evidencing Your alleged damages.

RESPONSE: All documents exchanged between the parties, including filed documents and other communications, which demonstrate the extent of the burden Plaintiff is imposing on Defendants in violation of the UPEPA.

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

RESPONSE: Defendants incorporate by reference their response to Interrogatory 21.

30. A copy of any insurance policy or agreement 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.

RESPONSE: None.

31. All Documents containing or Concerning any statement (as defined by Rule 4003.4 of the Pennsylvania Rules of Civil Procedure) Concerning any matter relating to this Action.

RESPONSE: Objection. This request seeks information protected from disclosure by the attorney-client privilege. Pa. R.C.P. 4003.3. Without waiving this objection, Defendants possess and control no non-privileged statements.

32. All Documents or exhibits that You intend to use at any hearing, deposition, or trial in this Action.

RESPONSE: Defendants have not determined the exhibits they may use.

33. All Documents containing or Concerning any lay opinion You intend to introduce at any hearing or the trial in this Action.

RESPONSE: Defendants have not determined what lay opinions they may use.

34. All Documents containing or Concerning any investigation(s) Concerning in any way the subject matter of this Action.

RESPONSE: Objection. This request seeks information protected from disclosure by the attorney-client privilege. Pa. R.C.P. 4003.3. Without waiving this objection, Defendants possess and control no non-privilege investigation records.

35. All reports and curricula vitae of all expert witnesses whom You intend to have testify at any hearing or the trial in this Action.

RESPONSE: Defendants have not determined whether an expert witness will be used.

Date: May 29, 2025 _____

LANCASTER TECH LAW PLLC

By: Brandon Hart _____

Brandon S. Harter, Esquire
Attorney No. 307676
brandon@lancastertechlaw.com

Jackie Boylhart, Esquire
Attorney No. 332668
jackie@lancastertechlaw.com

*Representing Defendants Relentless, Inc.
and Sean Kelly*

VERIFICATION

I verify that the statements made in the Defendants' Objections and Responses to Plaintiff's Interrogatories and Request for Production of Documents are true and correct.

I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.

§ 4904, relating to unsworn falsification to authorities.

Relentless, Inc.

Date: May 28, 2025 _____

By: Sean Kelly
Sean Kelly (May 28, 2025 13:49 EDT)
Mr. Sean Kelly

CERTIFICATE OF SERVICE

I certify that I am this day serving the Defendants' Objections and Responses to Plaintiff's Interrogatories and Request for Production of Documents by email sent to:

D. Joseph Ferris, Esq.
William J. Clements, Esq.
Klehr Harrison Harvey Branzberg LLP
1835 Market Street
14th Floor
Philadelphia, PA 19103
jferris@klehr.com
wclements@klehr.com

Attorneys for DonutNV Franchising, Inc.

Date: May 29, 2025 _____

LANCASTER TECH LAW PLLC

By: Brandon Harter
Brandon S. Harter, Esquire
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Jackie Boylhart, Esquire
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*Representing Defendants Relentless, Inc.
and Sean Kelly*

Defendants' Written Discovery Responses

Final Audit Report

2025-05-29

Created:	2025-05-28
By:	Rafael Chicas (rafael@lancastertechlaw.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAATVIX4bQ2mh7GzrvcszhsQAnrQ52GaRhW

"Defendants' Written Discovery Responses" History

-  Document created by Rafael Chicas (rafael@lancastertechlaw.com)
2025-05-28 - 6:39:18 PM GMT
-  Document emailed to unhappyfranchisee@gmail.com for signature
2025-05-28 - 6:41:02 PM GMT
-  Email viewed by unhappyfranchisee@gmail.com
2025-05-28 - 10:36:52 PM GMT
-  Signer unhappyfranchisee@gmail.com entered name at signing as Sean Kelly
2025-05-28 - 11:49:55 PM GMT
-  Document e-signed by Sean Kelly (unhappyfranchisee@gmail.com)
Signature Date: 2025-05-28 - 11:49:57 PM GMT - Time Source: server
-  Document emailed to Brandon Harter (brandon@lancastertechlaw.com) for signature
2025-05-28 - 11:49:59 PM GMT
-  Document e-signed by Brandon Harter (brandon@lancastertechlaw.com)
Signature Date: 2025-05-29 - 1:02:30 PM GMT - Time Source: server
-  Agreement completed.
2025-05-29 - 1:02:30 PM GMT

EXHIBIT D



**KLEHR HARRISON
HARVEY BRANZBURG^{LLP}**

D. Joseph Ferris
Direct Dial: (215) 569-3022
Email: jferris@klehr.com

June 2, 2025

By Electronic Mail

Brandon S. Harter, Esquire
Jackie Boylhart, Esquire
Lancaster Tech Law
brandon@lancastertechlaw.com
jackie@lancastertechlaw.com
Attorneys for Defendants

Re: *DonutNV Franchising, Inc. v. Sean Kelly and Relentless, Inc. t/d/b/a Unhappy Franchisee, Court of Common Pleas Lancaster County – Case No. 25-00737*

Mr. Harter & Ms. Boylhart:

On behalf of DonutNV Franchising, Inc. (“DonutNV”), I write to address deficiencies in the discovery responses and document production (the “Discovery Responses”) of defendants Sean Kelly and Relentless, Inc. t/d/b/a Unhappy Franchisee (collectively, the “Defendants”).

These deficiencies are set forth below:

Deficient Responses to Interrogatories

Interrogatories 5 through 8 request that Defendants identify current franchisees, former franchisees, franchise brokers, franchise promoters, or franchise marketers, and current and former employees of DonutNV with whom Defendants have communicated with respect to the subject matter of this litigation.

In response, Defendants claimed that these Interrogatories violate the confidential and privileged relationship between reporters and their sources; are overly broad and burdensome; are sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

These objections are without merit. First, a blanket assertion of privilege is insufficient. Defendants have failed to establish the factual basis necessary for this assertion or otherwise shown that their communications are protected by the reporter’s privilege. Defendants have not sufficiently established any evidence of their status as a journalist,

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and admitted in Interrogatory 22 that they have no membership in or affiliation with any media organizations. Nor have they shown that their communications with DonutNV's business partners were confidential or made with any expectation of confidentiality necessary to invoke reporter's privilege. To the contrary, Defendants' own website demonstrates a pattern of identifying specific DonutNV franchisees and franchise brokers by name—for example, identifying Nicole Porretto-Bacon and Scott Bacon of Las Vegas, Nevada, Marshall Moore and Elizabeth Moore of Roswell, Georgia, and Andrew Nessler and Christine Nessler of North Mankato, Minnesota as franchisees; and identifying Jake Hamburger and Jennifer Cain of Franchise Fastlane, and Mark Schnurman and Brandon Siegfried of The Perfect Franchise, as franchise brokers, promoters, and/or marketers. Defendants can hardly disclose DonutNV's business partners when it suits them and then turn around and claim that those same business partners' identities are confidential when asked about them pursuant to lawfully issued interrogatories. This pattern of public disclosure contradicts any potential asserted claim of privileged communications. Second, Defendants' claim that Interrogatories 5 through 8 are overly broad and burdensome is incorrect—the information requested pertains only to the small number of DonutNV's business partners who have communicated with Defendants, and bears directly on the subject matter of this litigation. Third, Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. Likewise, the argument that participating in discovery will have a “chilling effect” is without merit, and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please supplement Defendants' responses to Interrogatories 5 through 8 to provide the requested information. If Defendants contend that reporter's privilege applies, please provide the factual basis of this assertion, and prepare a privilege log identifying specifically which communications are privileged.

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

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that this Interrogatory seeks to violate the confidential and privileged relationship between reporters and their sources; is overly broad and burdensome; is sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is insufficient and without merit for several reasons. First, this Interrogatory seeks basic identifying information about Defendants' own email domains and addresses,

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not the content of any communications. Defendants have not established that their mere email addresses are protected by a reporter's privilege—indeed, such basic contact information falls outside any conceivable privilege protection. Likewise, Defendants' UPEPA objection conflates discovery requests with the underlying claims. Standard discovery about Defendants' own contact information does not violate UPEPA. The request is not overly broad or burdensome, as it is appropriately limited in time (January 1, 2023 to present) and seeks only basic operational information about Defendants' own email systems. Again, Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. Likewise, the argument that participating in discovery will have a “chilling effect” is without merit and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please supplement Defendants' response to Interrogatory 9 to provide a full and complete answer thereto.

Interrogatory 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”).”

In response, Defendants objected on the grounds that contention interrogatories should be used sparingly and only when targeting claims subject to early dismissal or resolution, or to clarify unclear claims. Defendants argued this request does not meet those criteria and is not reasonably targeted. Defendants also refer generally to their pleadings.

This response is insufficient. 231 Pa. Code r. 4003.1(c) provides that “it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.” Furthermore, Defendants' reference to their pleadings is inadequate because their Answer contains only conclusory legal allegations without any underlying factual basis necessary to evaluate their UPEPA claim. This information is necessary for Plaintiff to conduct focused discovery and properly evaluate the merits of Defendants' claims.

Please supplement Defendants' response to Interrogatory 11 to provide a full and complete answer thereto.

Interrogatory 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.”

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In response, Defendants objected on the grounds that contention interrogatories should be used sparingly and only when targeting claims subject to early dismissal or resolution, or to clarify unclear claims. Defendants argued this request does not meet those criteria and is not reasonably targeted. Defendants also refer generally to their pleadings.

This response is insufficient. 231 Pa. Code r. 4003.1(c) provides that “it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.” Furthermore, Defendants’ reference to their pleadings is inadequate because their Answer contains only conclusory legal allegations without any underlying factual basis necessary to evaluate their constitutional claims. This information is necessary for Plaintiff to conduct focused discovery and properly evaluate the merits of Defendants’ claims.

Please amend Defendants’ response to Interrogatory 12 to provide a full and complete answer thereto.

Interrogatory 13: “State the Basis for Your allegation in the Counterclaim that Unhappy Franchisee’s Blog Posts were made ‘for a justifiable journalistic purpose.’”

In response, Defendants incorporated by reference their response to Interrogatory 11, objecting on the grounds that contention interrogatories should be used sparingly and only when targeting claims subject to early dismissal or resolution, or to clarify unclear claims. Defendants argued this request does not meet those criteria and is not reasonably targeted. Defendants also refer generally to their pleadings.

This response is insufficient. 231 Pa. Code r. 4003.1(c) provides that “it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.” Furthermore, Defendants’ reference to their pleadings is inadequate because their Answer contains only conclusory legal allegations without any underlying factual basis necessary to evaluate their constitutional claims. This information is necessary for Plaintiff to conduct focused discovery and properly evaluate the merits of Defendants’ claims.

Please amend Defendants’ response to Interrogatory 13 to provide a full and complete answer thereto.

Interrogatories 14 through 19 ask Defendants to provide the factual basis for claims that Defendants made in their blog posts.

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In response, Defendants incorporated by reference their response to Interrogatory 5, claiming that these Interrogatories seeks to violate the confidential and privileged relationship between reporters and their sources; are overly broad and burdensome; are sought for the improper purpose of punishing, these Interrogatories seek only the factual basis for Defendants' own published statements, not any potentially confidential communications. Second, Defendants' claim that Interrogatories 14 through 19 are overly broad and burdensome is incorrect—the information requested pertains to very specific statements which Defendants made and bears directly on the subject matter of this litigation. Third, Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is insufficient. As set forth above, Defendants have failed to establish the factual basis necessary for this assertion or otherwise shown that their communications are protected by the reporter's privilege. Furthermore, requests themselves do not violate UPEPA. Likewise, the argument that participating in discovery will have a "chilling effect" is without merit, and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please supplement Defendants' response to Interrogatories 14 through 19 to provide a full and complete answer thereto.

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

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that this Interrogatory seeks to violate the confidential and privileged relationship between reporters and their sources; is overly broad and burdensome; is sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is also insufficient. As set forth above, Defendants have failed to establish the factual basis necessary for this assertion or otherwise shown that their communications are protected by a reporter's privilege. Additionally, the claim that this interrogatory is overly broad and burdensome is without merit—this Interrogatory asks only for the identity of a few specific individuals. Third, Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. Likewise, the argument that participating in discovery will have a

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“chilling effect” is without merit and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please supplement Defendants’ response to Interrogatory 20 to provide a full and complete answer thereto.

Interrogatory 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.”

In response, Defendants claim that Interrogatory 26 seeks information protected from disclosure by attorney-client privilege under Pa. R.C.P. 4003.3, and that any investigation conducted by Mr. Kelly was for the purpose of defending this lawsuit and communicating with legal counsel.

This response is insufficient. For one, investigative activities themselves are not protected by any privilege where the underlying factual investigations preceded the commencement of litigation. Second, even if these investigations did occur after the commencement of litigation, the privilege protects communications seeking or providing legal advice, not pure fact-gathering activities, which are at issue here. Even if this were not the case, Defendants’ blanket assertion of attorney-client privilege is overbroad and unsupported by facts. “The party invoking a privilege must initially set forth facts showing that the privilege has been properly invoked” *Knopick v. Boyle*, 2018 PA Super 140, 189 A.3d 432, 439 (2018).

Please supplement Defendants’ response to Interrogatory 26 to provide a full and complete answer thereto. To the extent any communications exist which are genuinely privileged, please provide a detailed privilege log specifying which aspects of any investigation are protected and the specific basis for each privilege claim.

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Deficient Responses to Requests for Productions:

Request for Productions 1 & 2 request the documents supporting Defendants' Counterclaim and Defenses.

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that these Requests for Production violate the confidential and privileged relationship between reporters and their sources; are overly broad and burdensome; are sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is without merit. First, as set forth above, Defendants have not established the factual basis necessary for a privilege to attach. Even if they did, the privilege would not apply because these requests seek documents supporting Defendants' own legal claims and defenses. Defendants cannot assert privilege over the factual basis for their own allegations. For the same reason, the argument that asking Defendants to provide the documents supporting their own claims and defenses is unduly burdensome is without merit. Clearly, Defendants know which documents support their own claims and defenses—otherwise their Answer with New Matter would be frivolous. Likewise, Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. The argument that participating in discovery will have a "chilling effect" is also without merit, and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please either (1) produce documents responsive to these requests, or (2) supplement Defendants' response by indicating that no such responsive documents are within Defendants' possession, custody, or control.

Request for Productions 5, 6, 7, & 9 seek documents and communications exchanged between Defendants and various parties.

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that these Requests for Production seek to violate the confidential and privileged relationship between reporters and their sources; are overly broad and burdensome; are sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

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This response is insufficient. First, as set forth above, Defendants have not established the factual basis necessary for this privilege to attach. The argument that this request is overly broad or unduly burdensome is also without merit—these requests are narrowly tailored to obtain documents directly relevant to the subject matter of this litigation. Likewise, Defendants’ broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. The argument that participating in discovery will have a “chilling effect” is also without merit and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please either (1) produce documents responsive to these requests, or (2) supplement Defendants’ response by indicating that no such responsive documents are within Defendants’ possession, custody, or control.

Request for Production 8: “All Documents and Communications reflecting all prior drafts, revisions, deletions, additions, and modifications to Your Blog Posts, whether prepared by You, Former Franchisees, Current Franchisees, or any other third-parties”

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that this Request for Production violates the confidential and privileged relationship between reporters and their sources; is overly broad and burdensome; is sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is insufficient. First, as set forth above, Defendants have not established the factual basis necessary for this privilege to attach. Additionally, this Request for Production only asks for Defendants’ own blog posts, not any communications with any sources. This Request for Production is not overly broad and burdensome, as it only pertains to a select few blog posts which gave rise to the subject matter of this litigation. Defendants’ broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. The argument that participating in discovery will have a “chilling effect” is also without merit, and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please either (1) produce documents responsive to this request, or (2) supplement Defendants’ response by indicating that no such responsive documents are within Defendants’ possession, custody, or control.

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Request for Production 11: “All Documents and Communication exchanged between You and any third-parties which are the subject of or otherwise referenced in any Blog Posts concerning consultation services or settlement.”

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that this Request for Production violates the confidential and privileged relationship between reporters and their sources; is overly broad and burdensome; is sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is insufficient. First, as set forth above, Defendants have not established the factual basis necessary for this privilege to attach. Additionally, this Request for Production only seeks documents and communications concerning consultation services or settlement, which by definition is not journalism. This Request for Production is not overly broad and burdensome, as it is limited in scope and directly related to the subject matter of this litigation. Defendants’ broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings— *i.e.*, discovery requests themselves do not violate UPEPA. The argument that participating in discovery will have a “chilling effect” is also without merit and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please either (1) produce documents responsive to this request, or (2) supplement Defendants’ response by indicating that no such responsive documents are within Defendants’ possession, custody, or control.

Requests for Production 13 through 15 seek documents or communications related to specific allegations in Defendants’ counterclaim.

In response, Defendants incorporate by reference their response to Interrogatory 11, objecting on the grounds that contention interrogatories should be used sparingly and only when targeting claims subject to early dismissal or resolution, or to clarify unclear claims. Defendants argued this request does not meet those criteria and is not reasonably targeted. Defendants also refer generally to their pleadings.

This is insufficient. For one, 231 Pa. Code r. 4003.1(c) allows for contention interrogatories, providing that “it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact.” This objection is also entirely inapposite because this is a request for production, not an interrogatory. Furthermore, Defendants’ reference to their pleadings is inadequate because

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their Answer contains only conclusory legal allegations without any underlying factual basis necessary to evaluate their constitutional claims. This information is necessary for Plaintiff to conduct focused discovery and properly evaluate the merits of Defendants' claims.

Please either (1) produce documents responsive to these requests, or (2) supplement Defendants' response by indicating that no such responsive documents are within Defendants' possession, custody, or control.

Requests for Production 18 through 23 seek documents and communications supporting specific statements Defendants made in their blog posts.

In response, Defendants incorporate by reference their response to Interrogatory 5, claiming that this Request for Production seeks to violate the confidential and privileged relationship between reporters and their sources; is overly broad and burdensome; is sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise.

This response is insufficient. First, as set forth above, Defendants have not established the factual basis necessary for a privilege to attach. Second, these requests seek documents supporting statements that Defendants chose to publish—Defendants cannot publish specific allegations and then claim privilege over the documentary basis for those same allegations which it voluntarily published them. These Requests for Production are not overly broad and burdensome, as they are limited in scope and directly related to the subject matter of this litigation. Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. The argument that participating in discovery will have a "chilling effect" is also without merit and conflates the underlying legal question with the legal discovery necessary to establish that question.

Please either (1) produce documents responsive to these requests, or (2) supplement Defendants' response by indicating that no such responsive documents are within Defendants' possession, custody, or control.

Requests for Production 25 & 26 ask for copies of Defendants' tax returns.

In response, Defendants object on the grounds that these requests seek irrelevant information not reasonably calculated to lead to discovery of admissible evidence and

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contend that the requests attempt to prematurely seek discovery of assets in aid of execution.

This response is without merit. Defendants' tax returns seek information relevant to Defendants' business operations and the scope of their activities related to the claims in this case. The fact that this might also be relevant to execution is irrelevant.

Please either (1) produce documents responsive to these requests, or (2) supplement Defendants' response by indicating that no such responsive documents are within Defendants' possession, custody, or control.

Request for Production 27: "All Documents and Communications reflecting any evidence demonstrating Your assertion that Plaintiff's business is a 'money grab' and/or a 'Ponzi scheme.'"

In response, Defendants incorporate by reference their responses to Interrogatories 5 and 11, claiming that this Request for Production seeks to violate the confidential and privileged relationship between reporters and their sources; is overly broad and burdensome; is sought for the improper purpose of punishing protected public expression; and will have a chilling effect on protected public expression in providing a necessary forum for members of the public considering the purchase of a franchise, and objecting on the grounds that contention interrogatories should be used sparingly and only when targeting claims subject to early dismissal or resolution, or to clarify unclear claims. Defendants argued this request does not meet those criteria and is not reasonably targeted. Defendants also refer generally to their pleadings.

This response is insufficient. First, as set forth above, Defendants have not established the factual basis necessary for a privilege to attach. Second, this Request for Production seeks factual allegations, not communications, and these requests seek documents supporting statements that Defendants chose to publish—Defendants cannot publish specific allegations and then claim privilege over the documentary basis for those same allegations which it voluntarily published. These Requests for Production are not overly broad and burdensome, as they are limited in scope and directly related to the subject matter of this litigation. Defendants' broad UPEPA objection conflates the underlying claims with legitimate discovery proceedings—discovery requests themselves do not violate UPEPA. The argument that participating in discovery will have a "chilling effect" is also without merit, and conflates the underlying legal question with the legal discovery necessary to establish that question. Likewise, the Pennsylvania Rules of Civil Procedure allow for contention interrogatories, and this objection is also entirely inapposite because this is a request for production, not an interrogatory. Furthermore, Defendants' reference to their

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pleadings is inadequate because their Answer contains only conclusory legal allegations without any underlying factual basis necessary to evaluate their constitutional claims. This information is necessary for Plaintiff to conduct focused discovery and properly evaluate the merits of Defendants' claims.

Please either (1) produce documents responsive to this request, or (2) supplement Defendants' response by indicating that no such responsive documents are within Defendants' possession, custody, or control.

To enable DonutNV to determine whether motion practice is necessary, please respond to this letter within **five business days** (*i.e.*, by **Monday, June 9th, 2025**) with Defendants' assurance that they will cure the deficiencies set forth above within **ten business days** of this letter (*i.e.*, by **June 16th, 2025**). We hope to avoid judicial intervention.

DonutNV continues to evaluate Defendants' Discovery Responses and reserves the right to assert additional deficiencies in an appropriate discovery motion.

Respectfully,

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

Cc: (William J. Clements; wclements@klehr.com)

**KLEHR HARRISON HARVEY
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DONUTNV FRANCHISING, INC.,

Plaintiff,

vs.

SEAN KELLY and RELENTLESS, INC.
t/d/b/a UNHAPPY FRANCHISEE,

Defendants,

:
:
: COURT OF COMMON PLEAS
: LANCASTER COUNTY

:
: CIVIL ACTION

:
: Docket No. 25-00737
:
:
:
:
:

**CERTIFICATE OF GOOD FAITH EFFORT PURSUANT
TO LANCASTER COUNTY LOCAL RULE 208.3(C)(c)(7)**

I, D. Joseph Ferris, hereby certify that I am counsel for Plaintiff DonutNV Franchising, Inc. and that I have made a good faith effort to resolve the discovery dispute with Defendants Sean Kelly and Relentless, Inc. t/d/b/a Unhappy Franchisee (“Defendants”) in the above-captioned action. Despite Plaintiff’s good faith efforts in the form of a letter dated June 2, 2025, no resolution has been reached.

Dated: June 18, 2025

/s/ D. Joseph Ferris
D. Joseph Ferris
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I, D. Joseph Ferris, hereby certify that on June 18, 2025, the foregoing motion with accompanying memorandum of law was served on Defendants' counsel of record by electronic mail.

Dated: June 18, 2025

**KLEHR HARRISON HARVEY
BRANZBURG LLP**

By: /s/ D. Joseph Ferris
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