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Representing Defendants Relentless, Inc. and Sean Kelly

IN THE COURT OF COMMON PLEAS FOR LANCASTER COUNTY

DONUTNV FRANCHISING, INC.,
Plaintiff

Case No. CI-25-00737

v.

RELENTLESS, INC. AND SEAN KELLY,
Defendants

**DEFENDANT'S MOTION FOR
JUDGMENT ON THE PLEADINGS
UNDER 42 PA. C.S.A. § 8320.1**

Relentless, Inc. and Sean Kelly, by and through their legal counsel Lancaster Tech Law, PLLC, files this Motion for Judgment on the Pleadings Under 42 Pa. C.S.A. § 8320.1, and states as follows:

1. Under Rule 1034, any party may move for judgment on the pleadings after the relevant pleadings are closed. Pa. R.C.P. 1034.¹
2. Plaintiff DonutNV Franchising, Inc. (“DonutNV”), filed this action against Defendants Relentless, Inc. (“Relentless”) and Sean Kelly alleging that DonutNV was injured because of statements posted on the website Unhappy Franchisee (the “Website”).

¹ As part of the UPEPA (defined below), the legislature established a procedure for early motions to dismiss claims that inappropriately seek to punish a defendant for protected public expression. 42 Pa. C.S.A. § 8340.16(d). These provisions are only effective once the Pennsylvania Supreme Court promulgates procedural rules. PA LEGIS 2024-72, 2024 Pa. Legis. Serv. Act 2024-72 (H.B. 1466) (PURDON'S). Because such rules have not been enacted, Defendants file this motion under Rule 1034.

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3. The Website provides an outlet for unhappy franchisees in various franchises to share their negative experiences with franchisors.

4. DonutNV was one of the franchisors criticized on the Website.

5. The Website is a perfect example of the exercise of the rights to public expression protected by the First Amendment to the United States Constitution and Article 1, Section 7 of the Constitution of the Commonwealth of Pennsylvania. U.S. Const. art. I, § 9, cl. 2; Pa. Const. art. 1, § 7.

6. In 2024, the Pennsylvania legislature adopted the Uniform Public Expression Protection Act (the “UPEPA”), 42 Pa. C.S.A. §§ 8340.11, *et seq.*, to grant immunity to those engaged in protected public expression.

7. When it did so, the legislature noted that “[t]here has been a disturbing increase in lawsuits brought primarily to chill the valid exercise of protected public expression.” 42 Pa. C.S.A. § 8340.12.

8. DonutNV’s claims for tortious interference and defamation cannot state a basis for which relief can be granted because Defendants are immune from claims arising from protected public expression through the Website.

9. Defendants are also entitled to an award of their attorney’s fees for being forced to defend against DonutNV’s meritless claims. 42 Pa. C.S.A. § 8340.12; 42 Pa. C.S.A. § 8320.1.

10. Furthermore, Defendants are entitled to an award of punitive damages under 42 Pa. C.S.A. § 8320.1(b)(3), because this case was initiated with the sole purpose of punishing or maliciously inhibiting protected public expression.

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WHEREFORE, Defendant Relentless, Inc. and Sean Kelly request the Court: (1) enter judgment in their favor and against Plaintiff DonutNV Franchising, Inc., on all claims in Plaintiff's Complaint; (2) award Defendants their reasonable attorney's fees to defend this action; (3) order Defendants to submit their request for reasonable attorney's fees within ten days; (4) award punitive damages in favor of Defendants and against Plaintiff; and (5) such other relief as the Court deems appropriate.

Date: Jul 15, 2025

LANCASTER TECH LAW PLLC

By: *Brandon Harter*

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*Representing Defendants Relentless, Inc.
and Sean Kelly*

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CERTIFICATE OF COMPLIANCE

I certify this filing complies with the provisions of the *Public Access Policy of the United Judicial Systems of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Date: Jul 15, 2025

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CERTIFICATE OF SERVICE

I certify that I am this day serving the Defendant's Motion for Judgment on the Pleadings Under 42 Pa. C.S.A. § 8320.1 by email sent to:

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Attorneys for DonutNV Franchising, Inc.

Date: Jul 15, 2025

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