

CAUSE NUMBER: 2022-06-34365-CV

**IN RE:
EMILIA MARIN**

§ **IN THE DISTRICT COURT**
§
§
§ **UVALDE COUNTY, TEXAS**
§
§
§ **38th JUDICIAL DISTRICT**

**PETITIONER EMILIA MARIN’S VERIFIED PETITION
FOR RULE 202 PRE-SUIT DEPOSITION**

TO THE HONORABLE JUDGE CAMILE G. DUBOSE:

NOW COMES Emilia Marin, Petitioner, and respectfully requests the court’s permission to take the oral deposition of Daniel Defense, LLC., aka Daniel Defense, Inc (“Daniel Defense”) Respondent, to obtain testimony and evidence as allowed by the Texas Rules of Civil Procedure 202 and 199.

I.

INTRODUCTION

1. Emilia Marin is an individual who resides in Uvalde, Uvalde County, Texas. Daniel Defense, LLC., is a limited liability corporation, engaging in the practice of selling AR-15-style rifles to the public, of whose address is 101 Warfighter Way, Black Creek, Georgia 31308 and whose telephone number is 1-866-554-GUNS. Daniel Defense, Inc., is a corporation engaging in the practice of selling AR-15-style rifles to the public, of whose address is 101 Warfighter Way, Black Creek, Georgia 31308 and whose telephone number is 1-866-554-GUNS.

II.

VENUE AND JURISDICTION

2. Venue is proper in Uvalde County, Texas, pursuant to Chapter 15 of the Texas Civil Practice and Remedies Code.

FILED
6/2/2022 7:01 PM
Christina Ovalle, District Clerk
Uvalde County, TX
By Karen Garza

3. This court has *in personam* jurisdiction over Daniel Defense because the Respondent established minimum contacts in Texas and the exercise of this court's jurisdiction comports with traditional notions of fair play and substantial justice. Daniel Defense purposely availed itself of the privileges and benefits of conducting business in Texas to establish sufficient contacts with Texas to confer personal jurisdiction¹.

III.

FACTUAL BASIS FOR RELIEF

4. Petitioner seeks to obtain the deposition testimony and evidence from Daniel Defense to investigate potential claims by the Petitioner.

5. The subject matter of the potential claim is the conduct of Daniel Defense which was a cause of the injuries and damages suffered by Emelia Marin. Specifically, Petitioner will make, among other things, the following categories of inquiry:

A. The facts surrounding an 18-year-old gunman, identified as Salvador Ramos, entering Robb Elementary School in Uvalde, Texas on May 24, 2022, and opening fire on children, adults and law enforcement with a Daniel Defense, LLC., AR-15-style rifle, killing 19 children and two teachers and injuring others;

B. The facts surrounding the weapon(s) possessed by the gunman including an AR-15 style assault rifle, designed, manufactured, marketed, and sold by Daniel Defense through a local gun dealer;

C. The facts surrounding the injury and death of individuals by the gunman's use of a Daniel Defense AR-15-style rifle;

¹ In addition to the relief sought in the Request to Depose section herein, Petitioner Requests the court issue an order allowing her to depose Daniel Defense on any fact essential to establish personal jurisdiction, if necessary.

D. The facts surrounding and the legal basis for the gunman's purchase of the firearms used by the gunman from a local gun dealer;

E. The facts surrounding four Daniel Defense AR-15-style rifles that were found in the hotel room of the 2017 Las Vegas shooter who massacred 60 individuals and wounded more than 400 others.

F. Facts surrounding Daniel Defense's pattern of marketing of its products in a manner associating firearms, and minors, by posting on social media.

IV.

REQUEST TO DEPOSE

6. Petitioner asks the court to issue an order authorizing her to examine Daniel Defense by oral deposition under Texas Rule of Civil Procedure 199.

7. Petitioner expects to illicit information concerning the conduct of the foregoing deponent to determine Daniel Defense's role in causing the harm to the Petitioner.

8. Petitioner seeks to discover information not otherwise available to determine if Petitioner has a good faith basis for a claim and/or litigation against Daniel Defense.

9. Petitioner requests the court order Daniel Defense to produce the following documents at its deposition pursuant to the Texas Rules of Civil Procedure Rule 199:

A. Any and all documents, records or tangible things, written, audio or electronic, that demonstrate, reflect, document, refer to or have any connection with the creation of the Daniel Defense website² since January 2017.

² "Documents, records or tangible things" means the existence, description, nature, custody, condition, location, and contents of papers, books, accounts, notes, drawings, graphs, charts, endorsements, assignments, applications, photographs, electronic or videotape recordings, data, and data compilations in your possession, custody, or

- B. Any and all documents, records or tangible things, written, audio or electronic, that demonstrate, reflect, or document Daniel Defense's annual gross revenue and profit from sales of semiautomatic rifles based on the AR platform and similar variants for the years 2012 to 2022.
- C. Any and all documents, records or tangible things that demonstrate, reflect, or document how many semiautomatic rifles based on the AR platform and similar variants have been sold by Daniel Defense each year to distributors, retailers, consumers, and government agencies, including those sold in Uvalde County, Texas for the years 2012 to 2022.
- D. Any and all documents, records or tangible things, written audio or electronic, that demonstrate, reflect, document, refer to or have any connection to how much Daniel Defense spent annually on advertising and marketing of semiautomatic rifles based on the AR platform and similar variants for the years 2012 to 2022.

control or known to you or your counsel, whether printed, computerized, microfilmed, reproduced by any other mechanical process or medium of expression, or written or produced by hand and whether or not claimed to be privileged, confidential, or personal, including but not limited to the final versions and all prior drafts of contracts; agreements; notes (including secretarial notes); business records; notebooks; work notes; work papers; communications (including intrabank communications and interbank communications); facsimiles; telecopies; telefaxes; electronic mail; correspondence; statements; reports; telegrams; agendas; forms; memoranda; bulletins; appointment books; logs; messages; diaries; texts; manuals; reference works and materials; samples of materials; depositions; analyses; projections; damage projections; forecasts; statistical statements; financial records; reports; charts; brochures; purchase orders; estimates; computer inputs and outputs; calculations; compilations of data; demonstrative evidence (including physical models, sketches, charts, graphs, plans, drawings, etc.); journals; billings; billing statements and records; receipts; invoices; data compilations; slides; sketches; graphics; charts; movies; videotapes; photographs and the negatives thereof; summaries, records or minutes of meetings or conferences; expressions of statements of policy; lists of people attending meetings or conferences; summaries, records, or reports of personal conversations or investigations; summaries, records, or reports of interviews; and all other writings, and any other similar matter, now or formerly in your possession, custody, or control or that of your counsel or of any other agent, representative, employee, bookkeeper, accountant, expert, or anyone else acting on your behalf, and includes documents used to support any conclusions or opinions reached. Any marginal comments appearing on any documents and any handwritten or other notations on any copy of a document, rendering, original, requiring production of it or a true copy of it with such notations.

- E. Any and all documents, records or tangible things, written, audio or electronic, that demonstrate, reflect, document, refer to or have any connection with how much Daniel Defense spent annually on lobbying federal and state governments, either directly or indirectly for the years 2012-2022.
- F. Any and all documents, records or tangible things, written, audio or electronic, that demonstrate, reflect, document, refer to or have any connection with how much funding Daniel Defense provided to the National Rifle Association for the years 2012 to 2022.
- G. Any and all documents, records or tangible things, written or audio or electronic, that demonstrate, reflect, document, refer Daniel Defense's monitoring or tracking of deaths or injuries caused by semiautomatic rifles based on the AR platform and similar variants that it manufactures.
- H. Any and all documents, records or tangible things, written, audio or electronic, that demonstrate, reflect, document, refer to or have any connection with total number of deaths or injuries that have resulted from the use of such firearms from 2012 to 2022, and whether those deaths occurred by suicide, accident, or homicide.
- I. Any and all documents, records or tangible things, written, audio or electronic, that demonstrate, reflect, document, refer to or have any connection with Daniel Defense's efforts monitor to or track crimes attempted or carried out with semiautomatic rifles based on the AR platform and similar variants. including, the total number of crimes attempted or carried out with semiautomatic rifles based on the AR platform and similar variants from 2012 to 2022 and the type of crime, the location in which the crime occurred, and any other details tracked by Daniel Defense.

V.

HEARING

10. After service of this Petition and notice, Rule 202.3(a) requires the Court hold a hearing on the Petition.

VI.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests the Court to set this Petition for hearing and after hearing, order the deposition of Daniel Defense and the production of the documents listed in this Petition and for any further relief to which the Petitioner may be entitled at law or in equity.

Respectfully submitted,

FLANARY LAW FIRM, PLLC
One International Center
100 NE Loop 410, Suite 650
San Antonio, Texas 78216
Tel: (210) 738-8383
Fax: (210) 728-3438

BY: /s/ Donald H. Flanary, III.
Donald H. Flanary, III.
State Bar No. 24045877

ATTORNEY FOR PETITIONER
Emilia Marin

VERIFICATION

My name is Donald H. Flanary, III, my date of birth is May 26, 1975, and my address is 100 N.E. Loop 410, Suite 650, San Antonio, Texas 78216, United States of America. I declare under penalty of perjury that I have read the forgoing verified petition and the that the facts stated therein are within my personal knowledge and are true and correct.

Executed in Bexar County, State of Texas, on the 2rd day of June 2022.

/s/ Donald H. Flanary, Jr.
"Declarant"

CERTIFICATE OF SERVICE AND NOTICE

The foregoing Petition has been served and notice given to the following in accordance with the Texas Rules of Civil Procedure on June 2, 2022:

Daniel Defense LLC., and
Daniel Defense Inc.,
101 Warfighter Way
Black Creek, GA 31308

***Via Certified Mail – Return Receipt Requested – Number 7017 1450 0000 5508 2362;
Electronic Mail – media@danieldefense.com; and, First Class United States Mail.***

/s/ Donald H. Flanary, III.
Donald H. Flanary, III.

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Ashley Cotton on behalf of Donald Flanary, III.
Bar No. 24045877
ashley@flanarylawnfirm.com
Envelope ID: 65088877
Status as of 6/3/2022 8:55 AM CST

Associated Case Party: Daniel Defense LLC

| Name | BarNumber | Email | TimestampSubmitted | Status |
|-------------------|-----------|-------------------------|---------------------|--------|
| Daniel DefenseLLC | | media@danieldefense.com | 6/2/2022 7:01:50 PM | SENT |

Associated Case Party: Daniel Defense Inc.

| Name | BarNumber | Email | TimestampSubmitted | Status |
|--------------------|-----------|-------------------------|---------------------|--------|
| Daniel Defense LLC | | media@danieldefense.com | 6/2/2022 7:01:50 PM | SENT |