FOR IMMEDIATE RELEASE

June 6, 2023

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Gun manufacturer Sig Sauer sued for causing the death of 21 year old Bainbridge Georgia resident

Sig Sauer, Inc., a New Hampshire manufacturer of handguns, has been sued for causing the death of 21 year old Dalton Harrell of Bainbridge Georgia on December 15, 2021. Dalton was a student at Florida A&M University in Tallahassee Florida and a star pitcher for the baseball team who was being scouted by professional baseball.

Dalton was home for the Christmas holidays and playing golf that day with a group of friends, including Caleb Boutwell of Bainbridge. Dalton was driving the group's golf cart and gave Caleb a ride to Caleb's truck. When Caleb opened the door of his truck, his Sig Sauer P938 pistol fell out of the pocket in the door, hit the ground, and fired. The bullet entered Dalton's chest as he sat in the golf cart. Dalton fell to the ground and died on the scene.

In interviews with law enforcement personnel Caleb insisted he had not touched the gun, and that the trigger of the pistol was not touched. Sig Sauer has been plagued by reports of such incidents with its pistols, most notably the P320 model. Sig Sauer has been sued numerous times for such "drop fire" incidents.

The Harrell family is represented by James E. Butler, Jr., Ramsey B. Prather, Daniel E. Philyaw, and Caroline Schley of Butler Prather of Georgia; Jeff Bagnell of Westport Connecticut; Billy Mathis of Albany Georgia, and David Kendrick of Bainbridge Georgia. (Butler, Philyaw and Schley won a $135.5 million verdict in April 2023; Butler & Philyaw won a $1.724 billion verdict against Ford Motor Company in August 2022. Bagnell has represented injured victims of Sig Sauer pistols in 12 other cases.)

"One of two things is true," said Prather, "Either Caleb Boutwell did not pull the trigger, in which event Sig Sauer is clearly liable, or Caleb Boutwell did pull

the trigger, in which event Caleb Boutwell is liable. A jury is going to have to decide who is at fault for Dalton's death."

"Sig Sauer has known for years about many incidents where its pistols fire without anyone touching the trigger – most often when the pistol is merely dropped," said Bagnell. "Sig Sauer pistols have injured almost 200 law enforcement officers and civilians."[1]

"This is a tragedy that should never have happened," said Philyaw. "Sig Sauer knew about a drop fire defect in its pistols but did not warn anyone."

"Dalton Harrell was an exceptional young man from a fine family with his whole life ahead of him," said Butler, who is lead counsel for the Harrell family.

The lawsuit was filed today, June 6, 2023, in the Superior Court of Decatur County Georgia (Bainbridge).

The lawsuit makes no specific demand for a dollar figure. It seeks recovery for the wrongful death of Dalton Harrell which, in the words of the Plaintiffs' Complaint, "under Georgia law, is the full value of the life of Dalton Harrell to himself as though he had lived and not been killed, both the intangible value of his life and the economic value of his life." Complaint, ¶87. The lawsuit also seeks compensatory damages for the pain & suffering endured by Dalton Harrell before he died, and punitive damages against Sig Sauer.

The lawsuit claims that Sig Sauer "acted with conscious indifference to the safety and well-being of the public," (¶74) and that "Sig Sauer's misconduct was a reckless and wanton disregard for safety." ¶76.

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[1] *See* Jose Pagliery, CNN, *Trigger warning: The Army got upgraded guns. For months, the public didn't. Now, law enforcement officers are suing over a pistol that can fire when you drop it*, https://www.cnn.com/interactive/2018/06/Investigates/sig-sauer-p320-drop-fire/ (June 6, 2018); *see also* Champe Barton & Tom Jackman, The Washington Post, *Popular handgun fires without anyone pulling the trigger, victims say*, https://www.washingtonpost.com/dc-md-va/2023/04/11/sig-sauer-p320-fires-on-own / (April 11, 2023) ("More than 100 people allege that their P320 pistols discharged when they did not pull the trigger, an eight-month investigation by The Washington Post and The Trace has found. At least 80 people were wounded in the shootings, which date to 2016.").

A copy of the Complaint is attached to this press release.

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CECILIA WILLIS
CLERK OF THE SUPERIOR COURTS
DECATUR COUNTY, GEORGIA
23CV00104

IN THE SUPERIOR COURT OF DECATUR COUNTY
STATE OF GEORGIA

JENNIFER HARRELL AND BOBBY HARRELL, Individually and as Administrators of THE ESTATE OF DALTON HARRELL;	*	
Plaintiffs,	*	CIVIL ACTION FILE NO. 23CV00104
v.	*	
SIG SAUER INC.; and CALEB BOUTWELL,	*	**JURY TRIAL DEMANDED**
Defendants.	*	

COMPLAINT

COME NOW Plaintiffs Jennifer and Bobby Harrell, Individually and as Administrators of The Estate of Dalton Harrell, ("Plaintiffs") and file this Complaint, showing this Honorable Court the following.

INTRODUCTION

On December 15, 2021, Dalton James Harrell, the 21-year-old son of Plaintiffs Jennifer and Bobby Harrell, was killed when a Sig Sauer P938 pistol belonging to his friend Caleb Boutwell fell from the driver's side door pocket of Boutwell's truck, hit the ground outside the vehicle, and fired a bullet into Harrell's chest. Dalton Harrell obviously suffered pain as a result, and he died on the scene of the incident.

This tragedy should not have occurred; the gun should not have fired. Sig Sauer's defective design of the gun and Sig Sauer's failure to warn about the risk known to Sig Sauer that the gun would fire when dropped without anyone pulling the trigger is what caused the injuries to and death of Dalton Harrell.

Sig Sauer defectively designed and failed to act reasonably when designing the P938. Simply stated: a gun should not fire unless the trigger is pulled. Sig Sauer's defective design creates serious risks of injury and death that greatly outweigh any utility of its design.

Sig Sauer failed to warn, or failed to adequately warn, users and the public about the dangers of the P938. Instead, Sig Sauer has continued to claim that the P938 is supposedly trustworthy, safe, and reliable.

Additionally, upon information and belief, Sig Sauer also defectively manufactured the P938. The P938 contains components that should have prevented a drop fire from occurring, including a firing pin block and firing pin block spring. Upon information and belief, manufacturing defects in Boutwell's P938 caused those components to malfunction.

The foregoing assumes that Caleb Boutwell did not pull the trigger on the pistol. That is what Caleb Boutwell told law enforcement officers immediately after the incident occurred. One of two things is true: Either Caleb Boutwell did not pull the trigger, in which event Sig Sauer is clearly liable, or Caleb Boutwell

did pull the trigger, in which event Caleb Boutwell is liable. It is also true that even if the trigger was not pulled by Caleb Boutwell, he was nonetheless negligent, as outlined in Count Five, below.

Sig Sauer's defective design, defective manufacturing, and/or its negligence combined with Caleb Boutwell's negligent handling of the P938 resulted in the injuries to and death of Dalton Harrell.

PARTIES, JURISDICTION, VENUE & SERVICE OF PROCESS

1.

Plaintiffs Jennifer and Bobby Harrell are the parents of Dalton Harrell and are also the appointed Administrators of The Estate of Dalton Harrell. Plaintiffs reside in Bainbridge, Decatur County, Georgia. Plaintiffs are subject to the jurisdiction and venue of this Court.

2.

Defendant Sig Sauer Inc. ("Sig Sauer") is a foreign, for profit corporation incorporated and existing under Delaware law. Defendant Sig Sauer's principal office is located at 72 Pease Boulevard, Newington, New Hampshire 03801. Defendant Sig Sauer is subject to the jurisdiction of this Court because it is authorized to and transacts business in the State of Georgia. Defendant Sig Sauer maintains a registered agent for service of process in Georgia and may be served

with legal process by serving its registered agent for service, Cogency Global Inc., 900 Old Roswell Lakes Parkway, Suite 310, Fulton County, Georgia 30076.

3.

Defendant Caleb Boutwell is a resident of the State of Georgia. He resides, is domiciled, and may be served with process at 1026 E. Pine Street, Bainbridge, Decatur County, Georgia 39819.

4.

Venue is proper in Decatur County because this is an action against joint tortfeasors and it therefore may be brought against all defendants in the county where any one of such defendants is deemed to reside. Defendant Boutwell resides in Decatur County. Ga. Const. art. VI, § II, ¶ IV; O.C.G.A. § 9-10-31.

5.

Additionally, venue is proper in Decatur County because it is the county where the cause of action originated. O.C.G.A. § 14-2-510(b)(4).

6.

This Court has subject matter jurisdiction over all claims in this case.

7.

This Court has personal jurisdiction over all parties.

8.

Venue is proper in this Court as to all parties.

OPERATIVE FACTS

The Incident

9.

On December 15, 2021, Dalton Harrell and several friends, including defendant Caleb Boutwell, were playing golf in Bainbridge, Georgia. What follows in paragraphs 10-17 is what Caleb Boutwell told law enforcement officers.

10.

After playing the first nine holes of the golf course, Harrell drove Boutwell in a golf cart to Boutwell's pickup truck, which was parked in the golf course parking lot.

11.

Inside the pocket in the front, driver's side door of Boutwell's truck was an unholstered Sig Sauer P938 9-millimeter pistol, Serial No. 52B199346.

12.

The pistol belonged to Boutwell.

13.

The pistol was loaded with ammunition, with a round in the chamber.

14.

Harrell parked the golf cart next to Boutwell's truck, on the driver's side of the truck and just slightly in front of the headlights.

15.

Boutwell opened the front, driver's side door of his truck.

16.

The gun fell out of the pocket of the front, driver's side door of Boutwell's truck and hit the ground.

17.

The gun fired when it hit the ground.

18.

The gun fired a bullet into Dalton Harrell, who was still seated in the driver's seat of the golf cart.

19.

The bullet sliced through Harrell's right bicep before piercing into the right side of Harrell's chest, just underneath his armpit.

20.

Harrell slumped over in the golf cart and then fell to the ground.

21.

Harrell died from the injuries he sustained as a result of the gunshot.

The Sig Sauer P938

22.

Defendant Sig Sauer designed, manufactured, marketed, distributed, and sold the subject P938 9-millimeter pistol (Serial No. 52B199346) (the "subject Sig Sauer P938" or "subject pistol")).

23.

The subject Sig Sauer P938 pistol was manufactured by Sig Sauer on or around May 28, 2016.

24.

The subject Sig Sauer P938 pistol contained design defects and/or manufacturing defects when it left Sig Sauer's control.

25.

The subject Sig Sauer P938 pistol was not accompanied by warnings or adequate warnings of the serious dangers in its design when it left Sig Sauer's control.

26.

Sig Sauer failed to inspect or failed to adequately inspect the subject P938 pistol before it left Sig Sauer's control.

27.

Flint River Outfitters, LLC of Bainbridge, Georgia sold the subject Sig Sauer P938 pistol to Caleb Boutwell's family on June 17, 2021.

The Defects in the Sig Sauer P938

28.

If the trigger of a gun is not pulled, then that gun should not fire.

29.

According to Caleb Boutwell, no one pulled the trigger of the subject Sig Sauer P938.

30.

According to Caleb Boutwell, despite no one pulling the trigger, the subject Sig Sauer P938 fired.

31.

If a gun is dropped to the ground, then that gun should not fire.

32.

According to Caleb Boutwell, the subject Sig Sauer P938 was dropped to the ground and fired.

33.

Firearms are one of the few products that are exempt from consumer product safety regulations. Pistols, like the Sig Sauer P938, and other firearms are

exempted from regulation by the Consumer Product Safety Commission under the Consumer Product Safety Act. *See* 15 U.S.C. § 2056; 15 U.S.C. § 2052; 26 U.S.C. § 4181.

34.

Instead of accepting government regulation, the weapons industry has insisted that it should create its own standards for pistol and firearm safety.

35.

Sig Sauer, along with other major weapons manufacturers, is a Member of the Sporting Arms and Ammunition Manufacturers' Institute, Inc. ("SAAMI").

36.

SAAMI creates the voluntary minimum standards that firearms manufacturers, including Sig Sauer, claim to accept.

37.

SAAMI has created a minimum standard known as the drop test.

38.

Under SAAMI's drop test, no pistol should fire if dropped from four feet or less.[1]

[1] *See* Sporting Arms and Ammunition Manufacturers Institute, Inc., *Voluntary Industry Performance Standards Criteria for Evaluation of New Firearms Under Conditions of Abusive Mishandling for the Use of Commercial Manufacturers* (2016) at 2, https://saami.org/wp-content/uploads/2019/01/SAAMI-Z299.5-Abusive-Mishandling-Approved-3-14-2016.pdf ("the firearm shall be capable of

39.

The P938 in this case fired when it was dropped from a distance of less than four feet. The P938 pistol thus failed to meet the minimum standard which Sig Sauer claims it was obligated to meet.

40.

The Sig Sauer P938 was designed in such a way that it can fire when the trigger is not pulled or when it is dropped to the ground.

41.

Upon information and belief, mechanical components in the subject P938 malfunctioned because they were improperly manufactured.

42.

Upon information and belief, the improperly manufactured components in the subject P938 caused the gun to fire when it was dropped.

The Danger was Known to Sig Sauer

43.

Gun users and owners regularly carry their weapons loaded with ammunition. It was foreseeable to Sig Sauer that gun users and owners will carry their weapons loaded with ammunition.

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passing the below test criteria for drop testing from a height of four (4) feet . . . [t]he firearm *shall not* fire a chambered empty primed case of its designated cartridge when tested in accordance with this procedure.") (emphasis added).

44.

Gun users and owners occasionally drop their weapons, including at times when they are loaded with ammunition. It was foreseeable to Sig Sauer that gun users and owners will drop their weapons, including at times when they are loaded with ammunition.

45.

Before Dalton Harrell was killed, Sig Sauer knew from its experiences there was a serious risk that Sig Sauer pistols would fire without anyone pulling the trigger.

46.

Before Dalton Harrell was killed, Sig Sauer knew from its experiences there was a serious risk that Sig Sauer pistols would fire when dropped.

47.

Sig Sauer has a page on its website called "Safety Warnings and Recall Notices: Safety Center."[2] Despite the known danger, there is no safety warning or recall listed on Sig Sauer's website for the P938 pistol.

[2] Sig Sauer, Inc., *Safety Warnings and Recall Notices: Safety Center*, https://www.sigsauer.com/safety-center (date accessed May 22, 2023).

48.

Sig Sauer also did not send safety warnings or recall notices to users and owners of Sig Sauer P938 pistols about the risks of a pistol firing without a trigger pull or drop firing in its product.

49.

It is common knowledge in the weapons industry that a pistol firing without a trigger pull and drop fires can lead to serious physical injury and death.

50.

Sig Sauer has actual knowledge of the grave safety risks and dangers from a pistol firing without the trigger being pulled and as a result of drop fires, which risks and dangers include serious physical injury and death.

51.

Sig Sauer has actual knowledge of those grave safety risks and dangers because Sig Sauer has actual knowledge of serious physical injuries and deaths as a result of its pistols firing when no one pulled the trigger and when the pistols were dropped. [3]

[3] *See* Jose Pagliery, CNN, *Trigger warning: The Army got upgraded guns. For months, the public didn't. Now, law enforcement officers are suing over a pistol that can fire when you drop it*, https://www.cnn.com/interactive/2018/06/Investigates/sig-sauer-p320-drop-fire/ (June 6, 2018); *see also* Champe Barton & Tom Jackman, The Washington Post, *Popular handgun fires without anyone pulling the trigger, victims say*,

52.

Yet, rather than properly warn people about the foreseeable dangers associated with drop fires of its pistols, Sig Sauer has made representations to the public about the supposed trustworthiness, "accuracy" and "reliability" of the Sig Sauer line of pistols.[4]

53.

Reasonable alternative designs were available to Sig Sauer at the time its pistol was designed, manufactured and sold.

54.

Sig Sauer failed to utilize a reasonable alternative design that would have eliminated or reduced the foreseeable risks of harm posed by the P938 pistol.

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https://www.washingtonpost.com/dc-md-va/2023/04/11/sig-sauer-p320-fires-on-own / (April 11, 2023) ("More than 100 people allege that their P320 pistols discharged when they did not pull the trigger, an eight-month investigation by The Washington Post and The Trace has found. At least 80 people were wounded in the shootings, which date to 2016.").

[4] *See* Exh. 1, Sig Sauer, Inc., *P938 Legion*, https://www.sigsauer.com/firearms/Pistols/p938.html (date accessed May 22, 2023).

COUNT ONE

Strict Liability of Sig Sauer

55.

Plaintiffs incorporate herein paragraphs 1-54 of this Complaint as if re-alleged in full.

56.

Sig Sauer is strictly liable to Plaintiffs under O.C.G.A. § 51-1-11 and other applicable law for the injuries to and death of Dalton Harrell because the risks inherent in the design of the P938 pistol outweigh any utility of the chosen design, thereby rendering the pistol defective, unreasonably dangerous, and not reasonable suited to the use for which it was intended.

57.

The defects in the Sig Sauer pistol include the following:

1. The Sig Sauer P938 pistol is defectively designed so that it can fire without the trigger being pulled.
2. The Sig Sauer P938 pistol is defectively designed so that it can fire when dropped.
3. The Sig Sauer P938 pistol is not accompanied by adequate warnings of the risks and dangers of the gun firing without the trigger being pulled or the gun firing when it is dropped.

58.

Upon information and belief, the subject Sig Sauer P938 pistol also contained manufacturing defects at the time it left Sig Sauer's control.

59.

The defects in the Sig Sauer pistol proximately caused the injuries to and death of Dalton Harrell, for which Plaintiffs are entitled to recover damages.

COUNT TWO

Negligence of Sig Sauer

60.

Plaintiffs incorporate herein paragraphs 1-54 of this Complaint as if re-alleged in full.

61.

Sig Sauer, as a product designer and manufacturer, owed a duty to the public, including Dalton Harrell, to exercise reasonable care to design and manufacture a product so as to make it free of unreasonable risk of harm to people in foreseeable situations.

62.

At the time Sig Sauer designed, manufactured, marketed, distributed, and sold the P938 pistol, Sig Sauer knew, and reasonably could have foreseen, that users and owners of its firearms would drop their pistols.

63.

At the time Sig Sauer designed, manufactured, marketed, distributed, and sold the P938 pistol, Sig Sauer knew, and reasonably could have foreseen, that Sig Sauer pistols would fire without anyone pulling the trigger.

64.

Sig Sauer breached its duty to exercise reasonable care to design and manufacture the P938 pistol so as to make it free of unreasonable risk of harm to people in such foreseeable situations.

65.

Sig Sauer's negligence proximately caused the injuries to and death of Dalton Harrell, for which Plaintiffs are entitled to recover damages.

66.

Alternatively, Sig Sauer's negligence combined with the acts and omissions of Caleb Boutwell to proximately cause the injuries to and death of Dalton Harrell, for which Plaintiffs are entitled to recover damages.

COUNT THREE

Sig Sauer's Failure to Warn

67.

Plaintiffs incorporate herein paragraphs 1-54 of this Complaint as if re-alleged in full.

68.

As a designer and manufacturer of firearms distributed and sold to the public, Sig Sauer has a duty to warn and a duty to adequately warn users and the public about unreasonably dangerous conditions in its firearms - and to remedy dangerous conditions in its firearms.

69.

Sig Sauer's failure to warn and/or failure to adequately warn foreseeable users and owners of the dangerous conditions in the P938 pistol rendered it defective and unreasonably dangerous to people.

70.

Sig Sauer breached its duty when it failed to warn and/or failed to adequately warn users and owners of the dangers and defects in the P938 pistol.

71.

As a matter of law, Sig Sauer's duty to warn of dangers and defects in its pistols was continuing – that duty remained after one of its pistols was sold and left the Sig Sauer facilities.

72.

Sig Sauer's failure to warn foreseeable users and owners of the dangers and defects in the P938 pistol proximately caused the injuries to and death of Dalton Harrell, for which Plaintiffs are entitled to recover damages.

COUNT FOUR

Punitive Damages Against Sig Sauer

73.

Plaintiffs incorporate herein paragraphs 1-54 of this Complaint as if re-alleged in full.

74.

Sig Sauer acted with conscious indifference to the safety and well-being of the public as defined under O.C.G.A. § 51-12-5.1, by designing, manufacturing, marketing, distributing, and selling its pistols with knowledge of the safety risks to people described above.

75.

Sig Sauer continued to design, manufacture, market, distribute, and/or sell the P938 pistol despite knowledge and notice that the dangers in its pistol caused or could cause injury and death.

76.

Sig Sauer's misconduct was a reckless and wanton disregard for safety.

77.

Sig Sauer's misconduct warrants *and demands* the imposition of punitive damages to penalize, punish, and deter the wrongdoing by Sig Sauer.

COUNT FIVE

Negligence of Caleb Boutwell

78.

Plaintiffs incorporate herein paragraphs 1- 54 of this Complaint as if re-alleged in full.

79.

Boutwell had a duty to exercise reasonable care in the care, storage, and operation of his P938 pistol so as not to cause harm or injury to others.

80.

Boutwell breached his duty by failing to store and operate his P938 pistol in a safe and prudent manner by storing the gun, loaded with ammunition, in the door pocket of his vehicle, by opening the vehicle door so as to cause the gun to fall to the ground, and by generally failing to carefully handle the gun in his possession.

81.

Boutwell's failure to exercise reasonable care caused the P938 pistol to fall to the ground and fire and, together with Sig Sauer's acts and omissions, proximately caused the injuries to and death of Dalton Harrell, for which Plaintiffs are entitled to recover damages.

82.

Boutwell is liable for those injuries and damages proximately caused by his negligence.

COUNT SIX

Joint and Several Liability of Defendants

83.

Plaintiffs reincorporate herein paragraphs 1- 54 of this Complaint as if re-alleged in full.

84.

Defendants jointly and concurrently committed tortious acts and omissions. Accordingly, all defendants are jointly and severally liable to Plaintiffs for the claims described herein.

DAMAGES SOUGHT

85.

Plaintiffs reincorporate herein paragraphs 1-54 of this Complaint as if re-alleged in full.

86.

The damages claimed by Plaintiffs were proximately caused by the tortious acts and omissions of the defendants, for which defendants are liable.

87.

Plaintiffs Jennifer and Bobby Harrell, *as the parents of Dalton Harrell*, are entitled under Georgia law to recover compensatory damages for the wrongful death of Dalton Harrell, the measure of which under Georgia law is the full value of the life of Dalton Harrell to himself as though he had lived and not been killed, both the intangible value of his life and the economic value of his life.

88.

Plaintiffs Jennifer and Bobby Harrell, *as the parents of Dalton Harrell*, are entitled to recover their expenses of litigation, including attorneys fees, pursuant to O.C.G.A. §13-6-11 and O.C.G.A. §9-11-68(e).

89.

Plaintiffs Jennifer and Bobby Harrell, as the Administrators of The Estate of Dalton Harrell, deceased, are entitled to recover for the following items of damages:

a. Shock, fright, and terror Dalton Harrell experienced from the time the Sig Sauer P938 pistol fired up until his death;
b. All components of mental and physical pain and suffering endured by Dalton Harrell from the time the Sig Sauer P938 pistol fired up until his death;
c. Funeral and burial expenses; and,

d. Punitive damages to punish and deter defendants pursuant to O.C.G.A. § 51-12-5.1; and

e. Expenses of litigation, including attorneys fees, pursuant to O.C.G.A. §13-6-11 and O.C.G.A. §9-11-68(e).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following:

A. That process and summons issue as provided by law, requiring Defendants to appear in this Honorable Court and answer Plaintiffs' Complaint;

B. That service be had upon Defendants as provided by law;

C. That Plaintiffs have a **trial by jury**;

D. That Plaintiffs have and recover all damages for losses compensable under Georgia law;

E. That punitive damages be imposed against Defendant Sig Sauer;

F. That all expenses of litigation, including attorney's fees, be cast against Defendants; and,

G. For such other and further relief to which Plaintiffs may be entitled at law or equity, as the Court shall deem just and appropriate.

(*Continued on next page)*

Respectfully submitted, this 6th day of June 2023.

/s/ James E. Butler, Jr.
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EXHIBIT 1

P938 LEGION

All metal gun with the features and reliability that you expect from a Legion Series Pistol

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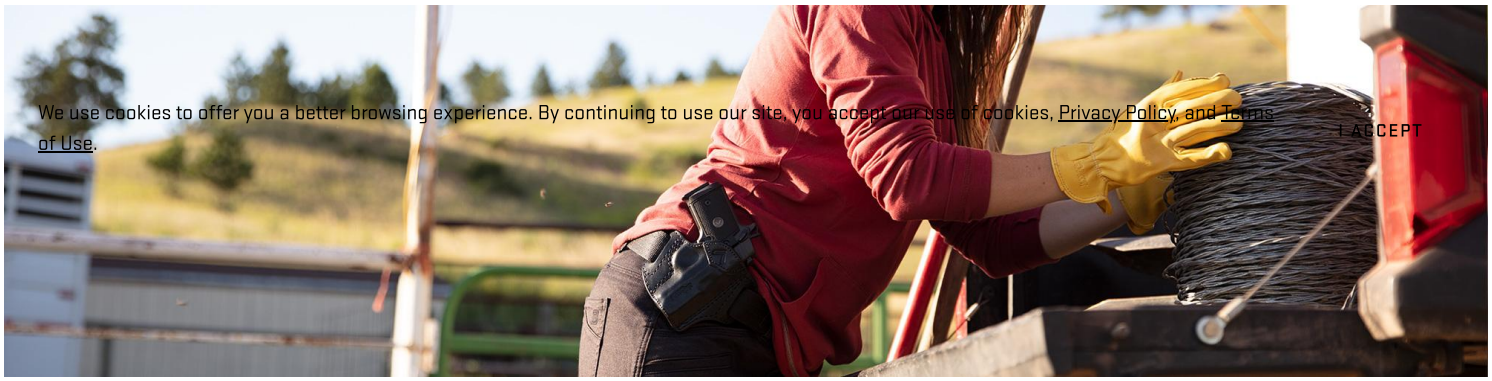
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P938 SAS Micro-Compact

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