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23 **ATTORNEYS FOR PLAINTIFFS**

24 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
25 **COUNTY OF LOS ANGELES**

26 CLAUDIA APOLINAR and
27 EMMANUEL PEREZ-PEREZ,
28
Plaintiffs,

v.

POLYMER80, INC., a Nevada
corporation, and DOES ONE through
FIFTY,

Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

INTRODUCTION

1. This case is about the unlawful and negligent sale of an untraceable home-assembled “ghost gun” kit that resulted in the September 2020 ambush

1 shooting of Los Angeles County Sheriff’s Deputies Claudia Apolinar and Emmanuel
2 “Manny” Perez-Perez, each of whom sustained multiple severe wounds.

3 2. On the evening of September 12, 2020, Sheriff’s Deputies Apolinar and
4 Perez-Perez (hereafter “Perez”) were on a routine shift sitting in a marked patrol
5 cruiser near the Martin Luther King Jr. Transit Center in Compton, CA.

6 3. A man dressed in black shorts, a grey sweater, and armed with a
7 Polymer80 ghost gun pistol silently approached the passenger side window of their
8 patrol cruiser under cover of night. Without warning, he ambushed them.

9 4. Deputy Apolinar was seated in the driver’s seat. The first indication she
10 had of an attack was the sound of shots coming from her assailant’s Polymer80 pistol
11 at point blank range. She immediately felt a searing, warm pain. She tried to radio
12 for help but could not speak. She would later learn that one of multiple gunshot
13 injuries she suffered was to her jaw. She could not speak because the shooter’s bullet
14 had sliced apart her tongue.

15 5. For Deputy Perez, the first indication of an attack was a glimpse of
16 movement out of the corner of his eye. Before he could react, he heard the sound of
17 gunfire – four shots – and saw the flash of the muzzle. He immediately tried to call
18 for help but his radio, which he later learned was struck by a bullet, was inoperable.
19 He tried to open his door to defend himself against the attacker but found he was
20 unable to use his hands. One of his multiple gunshot wounds was in his right arm.

21 6. After both Deputies were shot, Deputy Perez was eventually able to
22 open the door with his left hand. He first tried to determine whether the shooter had
23 fled the scene. He attempted to apply a tourniquet to his own bleeding arm but was
24 unable to. He then scrambled around the hood of the car to the driver’s side and saw
25 that his partner Deputy Apolinar had been shot in the face. Together, they hid
26 behind a pillar, as they were unsure of the shooter’s location. Deputy Apolinar
27 examined her partner’s wounds and applied a tourniquet to his arm. Deputy Perez
28 realized that his partner’s radio was activated but that she could not speak. Using

1 his partner’s radio, he called for help. The two of them waited until other Sheriff’s
2 Deputies arrived and transported them to the hospital.

3 7. Days later, during a pursuit of a carjacker, the suspect – Deonte Murray
4 (the “shooter”) – discarded a gun that was matched by ballistics to the ambush of
5 Deputies Apolinar and Perez.

6 8. The shooter was charged with attempted murder, assault with a deadly
7 weapon, and being a convicted felon illegally in possession of a firearm, among other
8 crimes.

9 9. The shooter was a California resident who had a history of prior felony
10 convictions that made it illegal for him to purchase or possess firearms, including
11 convictions for firearm possession, sale and possession of narcotics, receiving stolen
12 property, and burglary and terrorist threats.

13 10. At all relevant times, Polymer80, Inc. (“Polymer80”) and Does One
14 through Fifty (collectively “Defendants”) – manufactured, advertised, and sold
15 firearm kits that included some or all the components necessary to quickly and easily
16 build complete and fully functional frames and weapons, including Glock-style semi-
17 automatic handguns like the one used to ambush Plaintiffs.

18 11. These do-it-yourself firearms are commonly known as “ghost guns”
19 because they lack serial numbers and are therefore extremely difficult, if not
20 impossible, for law enforcement to trace when recovered in connection with criminal
21 investigations.

22 12. Because a central purpose of ghost guns is that they are untraceable, it
23 is difficult and often impossible to determine with certainty who manufactured, sold,
24 purchased, or transferred a particular ghost gun. Nevertheless, the firearm used in
25 the attack of Deputies Apolinar and Perez has been identified as a Polymer80
26 handgun, model PF940c. Upon information and belief, the firearm had no serial
27 number and bore no identifying characteristics save for a “P80” logo—the insignia of
28 Defendant Polymer80—stamped on the gun.

1 13. Upon information and belief, the unserialized Polymer80 firearm used
2 in the ambush attack of Sheriff’s Deputies Apolinar and Perez was originally
3 purchased as a kit in California from either Polymer80 or one of Polymer80’s third
4 party distributors, who sold it without performing a background check.

5 14. Defendants sold Polymer80 ghost gun kits without serial numbers and
6 without taking reasonable steps to ensure that purchasers are legally allowed to
7 purchase or possess firearms, despite knowing that their deadly products are
8 especially attractive to criminals and would likely and foreseeably end up in the
9 hands of dangerous persons prohibited from legally owning firearms under federal
10 and state law. Furthermore, Defendants did not take reasonable steps to ensure that
11 law enforcement could trace their assembled firearms if they were used in crimes. In
12 fact, Defendants purposefully sold their products without markings to make it
13 difficult for law enforcement to trace the firearm. Defendants knew and could foresee
14 – but consciously disregarded the risk – that they were creating and contributing to a
15 direct and secondary market for illegal, unserialized and untraceable guns, knowing
16 that their firearms were likely to end up in the hands of criminals and were likely to
17 be used for criminal purposes like the ambush shooting of the Plaintiffs.

18 15. The proliferation of ghost guns has become a nationwide public health
19 emergency, as these firearms have increasingly become weapons of choice for
20 criminals. According to the Bureau of Alcohol, Tobacco, Firearms and Explosives
21 (“ATF”), from 2016 to 2020 there were approximately 23,906 suspected privately
22 made ghost guns reported to ATF as having been recovered by law enforcement from
23 potential crime scenes, including 325 homicides or attempted homicides.¹

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27 ¹ May 21, 2021 Proposed Rule Docket No. ATF 2021R-05, Federal Register Vol. 86,
28 No 97 at 27722 *available at* <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10058.pdf> (last accessed August 6, 2021)(hereafter “Proposed Rule”).

1 16. The proliferation of ghost guns has been an especially severe problem in
2 California and Los Angeles in particular. In recent years, nearly 33% of all firearms
3 recovered from federal criminal investigations across California lacked serial
4 numbers.² In the Los Angeles area, the ATF has stated that over 40% of its
5 recoveries are ghost guns.³

6 17. According to public reports and legal filings, Polymer80 is by far the
7 largest seller and manufacturer of ghost gun kits and components. For example, of
8 approximately 1,475 ghost guns seized in 2019 and entered into the ATF’s database
9 of ballistic images, over 86% (1,278) were assembled from Polymer80 components.⁴ In
10 2020, the LAPD recovered over 700 firearms with Polymer80 components during the
11 course of criminal investigations.

12 18. Polymer80 is currently under federal criminal investigation for its sale
13 of ghost gun kits. In December 2020, the ATF executed a search warrant at
14 Polymer80’s Nevada headquarters as part of its investigation into Polymer80’s sales
15 of all-in-one “Buy Build Shoot Kits,” from which purchasers can quickly and easily
16 assemble their own Glock-style semi-automatic handguns – the same type of firearm
17 used in the ambush shooting of Deputies Apolinar and Perez.⁵

18 19. Polymer80’s core products—gun building kits that are quickly and
19 easily assembled into operable weapons—fall under the definition of “firearm” and, in
20 certain instances, “handgun” under federal law. Therefore, Polymer80’s business
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23 ² Alain Stephens, Ghost Guns Are Everywhere in California, THE TRACE (May 17,
2019), <https://www.thetrace.org/2019/05/ghost-gun-california-crime/>.

24 ³ Brandi Hitt, Ghost Guns’ Investigation: Law Enforcement Seeing Unserialized
25 Firearms on Daily Basis in SoCal, ABC7 LOS ANGELES (January 30, 2020),
<https://abc7.com/5893043/>.

26 ⁴ Affidavit of ATF Special Agent Tolliver Hart, *In the Matter of the Search of the*
27 *Business and Federal Firearms Licensee known as Polymer80, which is located at 134*
Lakes Blvd., Dayton, NV 89403, 3:20-mj-123-WGC, ¶ 28(e) (D. Nev. Dec. 9,
2020)(hereafter “ATF Affidavit”).

28 ⁵ ATF Affidavit at ¶ 28(c).

1 practice of selling gun building kits without serial numbers, without conducting
2 background checks, and to purchasers residing in a different state, is illegal under
3 federal law.

4 20. Defendants have also violated California law by aiding and abetting the
5 manufacture of handguns that fail to comply with (a) the safety requirements of
6 California’s Unsafe Handgun Act and (b) California’s certification and serial number
7 requirements. Indeed, the ATF has stated in a search warrant application that
8 “manufacturing or assembling a firearm made with [Polymer80] pistol frames is
9 unlawful in California.”⁶

10 21. Defendants created a public nuisance and acted with gross negligence,
11 recklessness, and malice towards Plaintiffs and all Californians, and acted with
12 conscious disregard for the health and safety of Plaintiffs and all Californians, by
13 creating a market that unreasonably and directly and indirectly put untraceable, no-
14 background check guns in the hands of dangerous persons, foreseeably resulting in
15 the use of its guns in criminal acts.

16 22. By this lawsuit, Plaintiffs seek to hold Polymer80 and its principals
17 accountable for its role in facilitating and causing one particularly reprehensible
18 criminal act carried out with one of its ghost guns: the ambush shooting of Sheriff’s
19 Deputies Apolinar and Perez in September 2020.

20 23. Plaintiffs, as law enforcement officers themselves, seek accountability –
21 not only the accountability of the shooter which he will face in the context of his
22 criminal prosecution, but also the civil responsibility of those who recklessly equipped,
23 enabled, and empowered the shooter to commit his crimes.
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⁶ ATF Affidavit at ¶ 65, note 6

1 **PARTIES**

2 24. Claudia Apolinar is a Los Angeles County Sheriff’s Deputy, who
3 graduated from the Los Angeles County Sheriff’s Deputy Training Academy in 2019.
4 As a college student, she took criminal justice classes from former law enforcement
5 officers. She was inspired by their commitment to service and bravery. She loves the
6 community where she grew up – East Los Angeles. When her son was born, she
7 decided to pursue work in a field where she could help ensure that the East Los
8 Angeles area she grew up in was as safe and supportive as she remembered. Her
9 career in law enforcement allows her to realize that vision.

10 25. Emmanuel Perez is a Los Angeles County Sheriff’s Deputy, who
11 graduated in the same Sheriff’s Deputy Training Academy 2019 class as Claudia
12 Apolinar. Growing up in a working class Mexican American community, he had a
13 number of negative experiences with law enforcement. Yet, he became a Sheriff’s
14 Deputy because he believes that police officers can play a vital role in his community.
15 He wants to serve as a positive example of law enforcement in his city. As a Los
16 Angeles County Sheriff’s Deputy, he has always been committed to treating everyone
17 he meets fairly and with dignity and respect.

18 26. Defendant Polymer80, Inc. is a Nevada corporation with its principal
19 place of business in Dayton, Nevada. Polymer80, Inc. holds a Federal Firearms
20 License.

21 27. Defendants, and each of them, knowingly structured their business to
22 knowingly circumvent governing federal and state laws applicable to firearms and
23 handguns, by opting to design readily manufactured unserialized gun and frame kits
24 and selling them without background checks.

25 28. The true names and capacities, whether individual, corporate, or
26 otherwise, of Does One through Fifty, inclusive, are presently unknown to Plaintiffs,
27 who therefore sue them by fictitious names. Plaintiffs shall amend the complaint to
28 show the true names of each fictitiously named defendant when ascertained.

1 screws in his hand and arm to hold the shattered bones together, and he is informed
2 that he requires additional surgery to restore function in his hand. He suffers from
3 numbness in his right hand on his index finger and running to the top of his hand.
4 He cannot lift more than ten pounds with his injured arm.

5 40. Deputy Perez struggles with sleep every night and is receiving mental
6 health support for his trauma. He suffers from flashbacks. He had no previous
7 mental health issues before the ambush. Before his injury he loved being around his
8 family, but he now feels withdrawn and irritable for reasons he cannot explain. He
9 increasingly avoids interactions with other people.

10 41. Neither Deputy Apolinar nor Deputy Perez has been cleared to return to
11 duty.

12 ***The Shooter***

13 42. As noted above, the shooter is a California resident who had a history of
14 multiple prior felony convictions that made it illegal for him to purchase or possess
15 firearms.

16 43. The shooter was able to commit the ambush shooting of the Deputies
17 because Defendants' deliberate and reckless acts created a direct and secondary
18 market that foreseeably provided prohibited persons like the shooter with easy access
19 to unserialized ghost guns assembled from kits and purchased without any
20 background check.

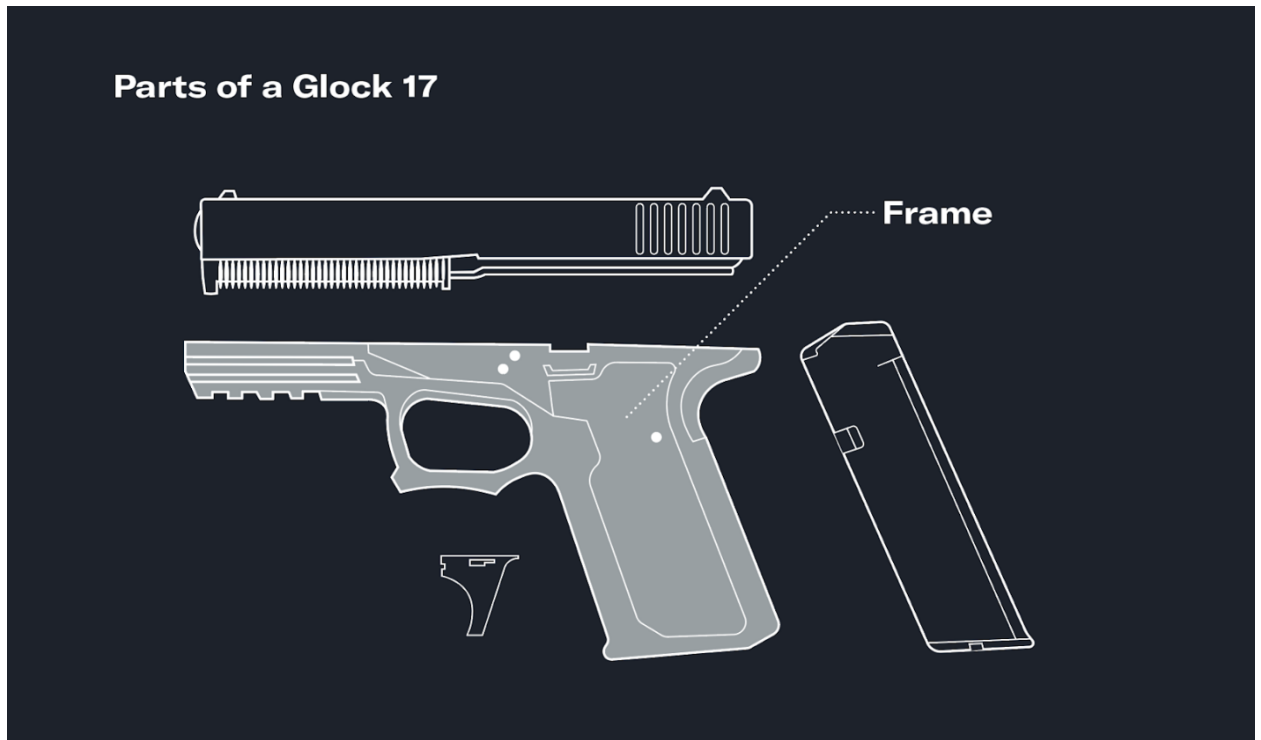
21 44. Upon information and belief, the shooter chose to shoot the Deputies
22 with this Polymer80 ghost gun in substantial part because he knew it was
23 unserialized and untraceable by normal means.

24 ***Ghost Gun Basics***

25 45. A firearm made by a federally licensed manufacturer must be engraved
26 with identifying information: a unique serial number, as well as the make and model.
27 A ghost gun is a do-it-yourself, homemade gun made from commercially available
28 building blocks. It is assembled by an individual rather than by an ATF-licensed

1 manufacturer or importer. A ghost gun has three key, related characteristics: it is
2 unserialized, it is virtually untraceable, and its core building blocks (the frame for a
3 handgun, or the receiver for a rifle) are acquired without a background check.

4 46. In a pistol (such as a Glock 17, pictured below), the frame provides the
5 basic bottom outline of the gun, housing the trigger and the magazine, while
6 providing a foundation for the slide and barrel (i.e., the parts a bullet passes through
7 when fired and from which cartridges are ejected).



21 47. Most ghost guns are made from “unfinished” frames and receivers,
22 which means they lack machine marking or drilling in certain specified areas
23 (typically, the fire control cavity or trigger area). Unfinished frames and receivers
24 are often marketed as “80%” complete, such that a buyer needs to do only a small
25 percentage of the work—typically, drilling out certain parts—for the frame or
26 receiver to be “finished” and then assembled into an operable firearm.

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1 *The sale of ghost guns has created an urgent and continuing public safety*
2 *emergency*

3 48. The sale of ghost gun kits undermines sixty years of federal law directed
4 at preventing dangerous persons from possessing firearms and assisting law
5 enforcement in tracing firearms. In 1968, amid rising rates of violent crime and
6 following several high-profile assassinations—including the killing of President
7 Kennedy with a rifle ordered through the mail—Congress passed landmark
8 legislation to assert federal control over the manufacturing, distribution, purchase,
9 and sale of firearms. One of the principal aims of the Gun Control Act of 1968 (the
10 “Act”) was to eliminate the ability of criminals, minors, and persons with dangerous
11 histories to obtain mail-order firearms without any federal oversight or regulation.
12 To achieve this aim, the Act mandated that firearms dealers be federally licensed and
13 that every firearm be stamped with a serial number so that law enforcement could
14 trace the origin of the firearm if it ended up being used in a crime. The Act was later
15 amended to require a background check on all purchases of firearms from licensed
16 sellers.

17 49. Typically, when police recover a firearm, they use the included serial
18 number and other markings to initiate a trace request through the ATF. By tracing
19 a gun back to its first sale at retail, law enforcement agencies gain an additional lead
20 in an investigation, identify straw purchasers and traffickers, and figure out how a
21 gun arrived at a crime scene.

22 50. As noted above, because they are unserialized, ghost guns are intended
23 to be, and often are, untraceable back to their original purchaser or subsequent
24 transferees. Ghost guns have no recorded history and no records associated with
25 them. The untraceability of ghost guns is one of their selling points and makes them
26 attractive to criminals and gun traffickers trying to avoid responsibility when their
27 guns are recovered by law enforcement. As one federal appellate court has explicitly
28 noted in the analogous context of handguns with obliterated serial numbers, “[t]here

1 would appear to be no compelling reason why a law-abiding citizen would prefer an
2 unmarked firearm. These weapons would then have value primarily for persons
3 seeking to use them for illicit purposes.”⁷ Sellers of ghost gun kits take the work out
4 of obliterating a serial number and directly and indirectly supply and create a direct
5 and secondary market for such illicit users.

6 51. Since 2014, sellers of ghost gun kits have proliferated over the internet,
7 with scores of such sellers distributing them during the relevant time period. These
8 unserialized and nearly complete firearms are often purchased by or otherwise end
9 up in the hands of people who are prohibited from possessing firearms because of
10 age, dangerous mental health history, or criminal history – individuals who are
11 attracted by the ability to purchase nearly complete guns without a background
12 check.

13 52. Once assembled, ghost guns continue to be especially attractive – and
14 are often sold or transferred – to criminals, who place a high premium on firearms
15 that are untraceable and come with no traceable history of use in prior crimes.

16 53. The number of ghost guns recovered by law enforcement throughout the
17 country has increased in recent years. As noted above, from January 1, 2016 through
18 December 31, 2020, there were approximately 23,906 suspected ghost guns reported
19 to ATF as having been recovered by law enforcement from potential crime scenes,
20 including 325 homicides or attempted homicides, and that were attempted to be
21 traced by ATF. They are broken down by year as follows:

- 22 a. 2016: 1,750
 - 23 b. 2017: 2,507
 - 24 c. 2018: 3,776
 - 25 d. 2019: 7,161
- 26
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28 ⁷ *United States v. Marzarella*, 614 F.3d 85, 95 (3d Cir. 2010).

1 e. 2020: 8,712⁸

2 54. The trend in California is consistent with these national numbers. ATF
3 has estimated that about 2,700 ghost guns were recovered in California in 2019.⁹
4 And as noted above, in 2020, LAPD recovered over 700 firearms with Polymer80
5 components during the course of criminal investigations. Nearly 300 such firearms
6 were recovered from LAPD's South Bureau, which covers south Los Angeles –
7 including the Compton neighborhood where the Plaintiff Deputies were ambushed
8 and shot. LAPD reports that the proportion of recovered firearms that are ghost guns
9 is increasing. In other words, more and more, criminals are choosing ghost guns to
10 commit crimes.

11 55. Other horrific examples of ghost gun crimes in California abound. In
12 November 2019, a 16-year-old student at Saugus High School in Santa Clarita
13 brought a home-assembled ghost gun to school and used it to shoot five of his
14 classmates, killing two before turning the gun on himself. In May of 2020, two far-
15 right anti-government activists used a ghost gun to murder a security officer for the
16 Oakland federal courthouse and a Sheriff's Deputy in Santa Cruz. A ghost gun built
17 from Polymer80 components was used during a 2019 home invasion robbery and
18 murder of three persons in Glendale. Two ghost guns recovered near the scene of a
19 November 2020 murder in Glendale, carried out by members of the Gardena 13
20 street gang, were built with Polymer80 model PF940C components.¹⁰

21 56. The grim, foreseeable, and inevitable result of the reckless and
22 negligent sale of ghost gun kits is the police increasingly finding these dangerous,
23 untraceable weapons at crime scenes.

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27 ⁸ Proposed Rule at 27722-3.

28 ⁹ ATF Affidavit at ¶ 28(b).

¹⁰ ATF Affidavit at ¶¶ 28b, 28d.

1 ***Defendant Polymer80 is Largely Responsible for the Proliferation of Ghost***
2 ***Guns***

3 57. As alleged above, law enforcement statistics show that an
4 overwhelmingly large percentage of the ghost guns recovered nationwide at crime
5 scenes were assembled from Polymer80’s products, and the same is true in California
6 and Los Angeles.

7 58. At all relevant times, Polymer80 sold untraceable firearm kits and
8 components without first conducting background checks or taking other reasonable
9 steps to ensure the purchaser was eligible to buy a gun—foreseeably resulting in
10 purchase by and transfer to persons who cannot legally obtain a serialized, traceable
11 weapon from a licensed dealer, and to persons for whom such a weapon is
12 particularly desirable for use in unlawful acts.

13 59. At all relevant times, Polymer80 offered “Buy Build Shoot” kits—which,
14 until recently,¹¹ were sold directly by Polymer80 before Polymer80 ceased sales, and
15 which are still being offered for sale by resellers.¹² With one of these kits, a
16 purchaser could obtain a nearly finished Glock-type semiautomatic pistol—the
17 precise firearm used in the ambush on Plaintiffs – and quickly and easily assemble it
18 into a completed, operable firearm. Polymer80’s website described these kits as
19 “contain[ing] all the necessary components to build a complete PF940C™ or
20 PF940v2™ pistol.”¹³ A Polymer80 Buy Build Shoot kit can be completed into a
21

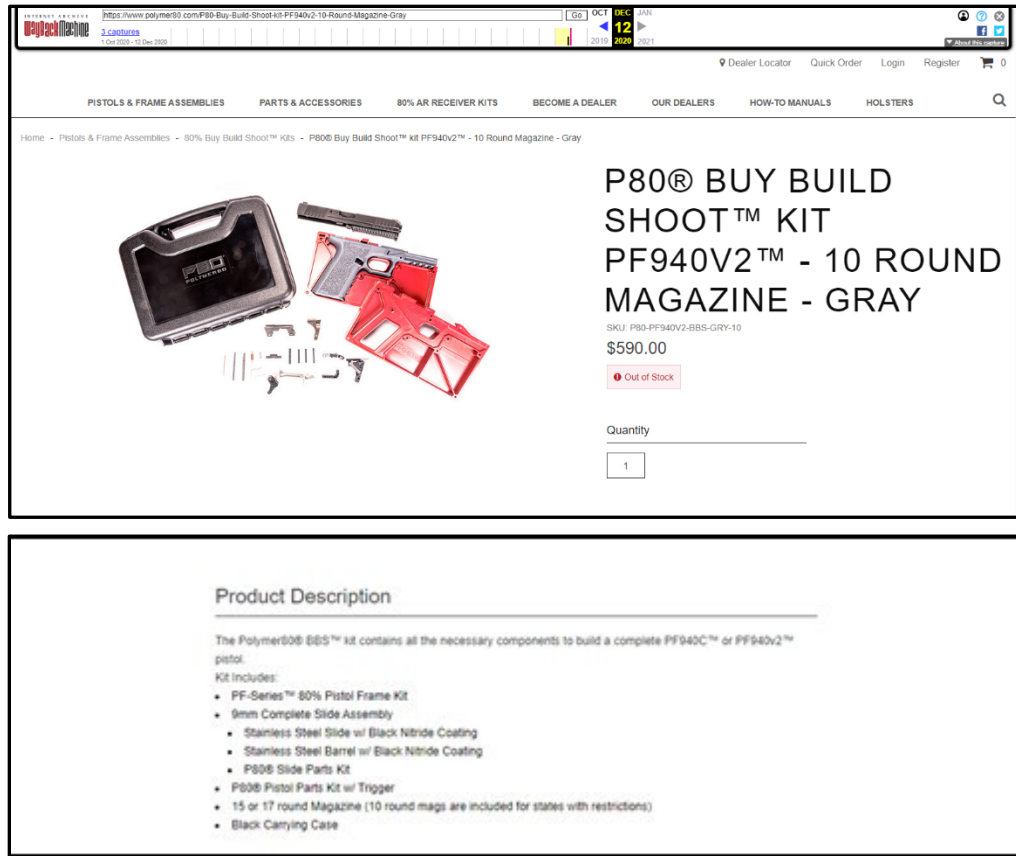
22 ¹¹ Polymer80 advertised these kits as recently as December 12, 2020. *See*
23 “Polymer80 BBS™ Kits,” Polymer80, archived webpage from Dec. 12, 2020, *available*
24 *at* [https://web.archive.org/web/20201212165741/https://www.polymer80.com/pistols/bbsk](https://web.archive.org/web/20201212165741/https://www.polymer80.com/pistols/bbskits)
its (last visited July 19, 2021).

25 ¹² Although Polymer80’s Buy Build Shoot kits are not currently advertised for sale
26 on Polymer80’s own website, they are still being advertised for sale on some resellers’
27 websites. *See, e.g.,* [https://www.armorally.com/shop/polymer80-pf940c-g19-buy-build-](https://www.armorally.com/shop/polymer80-pf940c-g19-buy-build-shoot-kit/)
[shoot-kit/](https://www.armorally.com/shop/polymer80-pf940c-g19-buy-build-shoot-kit/) (last visited August 6, 2021).

28 ¹³ Polymer80, archived webpage from Dec. 12, 2020, *available at*

1 functioning firearm in under thirty minutes.¹⁴ Such a kit is designed to be and may
2 readily be converted into an operable weapon. It also is a combination of parts from
3 which a firearm which has a short stock and is designed to be held and fired by the
4 use of a single hand can be assembled.

5 60. The images below are screenshots of a cached Polymer80 webpage from
6 December 11, 2020 relating to the Buy Build Shoot kit.



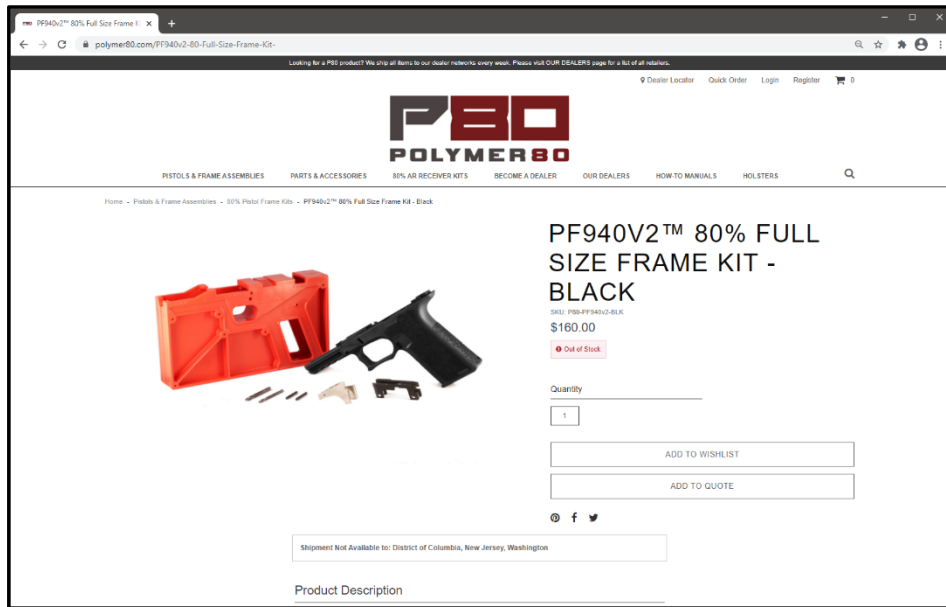
21 61. In addition to the full Buy Build Shoot kits, at all relevant times
22 Polymer80 advertised and sold frame kits for handguns and lower receiver kits for
23 AR-15 and AR-10 style rifles.¹⁵ These unfinished frame and receiver kits are

24
25 <https://web.archive.org/web/20201212165927/https://www.polymer80.com/P80-Buy-Build-Shoot-kit-PF940v2-10-Round-Magazine-Gray> (last visited July 19, 2021).

26 ¹⁴ Proposed Rule at FN54.

27 ¹⁵ “P80 80% Pistol Frame Kits,” Polymer80, *available at*
28 <https://www.polymer80.com/pistols/80percentpistolkits> (last visited July 19, 2021);

1 designed to be, and can quickly and easily be converted into, working frames and
2 receivers that form the core component of a functioning firearm. As of July 19, 2021,
3 Polymer80 was still advertising the sale of these frame kits and lower receiver kits
4 through its website.¹⁶ Polymer80’s pistol frame kits were at all relevant times sold
5 with a “complete finishing jig and drill bits,” as illustrated in the figure below, which
6 is a screenshot of a Polymer80 webpage, taken on February 14, 2021, showing a
7 Polymer80 80% pistol frame kit for sale.



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18 62. At all relevant times, Polymer80 also sold other components to enable
19 customers to assemble a complete handgun, including pistol barrels, slides, and
20 trigger assemblies.

21 63. At all relevant times Polymer80 also misleadingly suggested on its
22 website that ATF had concluded that its *kits* are not firearms under federal law,
23 when in fact: (a) ATF had only issued determination letters that concluded
24 (erroneously) that certain Polymer80 standalone unfinished frames and receivers as
25 submitted were not classified as firearms (including a PF940C standalone “blank”),

26
27 “80% AR Receiver Kits,” Polymer80, *available at*
<https://www.polymer80.com/arreceivers> (last visited July 19, 2021).

28 ¹⁶ *Id.*

1 but (b) ATF had never issued any such non-firearm classifications as to Polymer80’s
2 frame and receiver *kits* and instead had sent Polymer80 correspondence in February
3 2018 indicating that a PF940V2 pistol frame kit might well be considered a firearm
4 and seeking further information. After having misled the ATF that its PF940
5 product “is void of any indicators that designate or provide guidance in completion of
6 the firearm,” Polymer80 never provided the requested additional information to allow
7 ATF to make a determination as to its PF940 when sold in kit form.¹⁷

8 64. Beyond selling these products, at all relevant times Polymer80
9 substantially assisted the assembly of these firearms by offering written step-by-step
10 assembly instructions online, accompanied by supplemental videos, to facilitate the
11 manufacture of both pistols and semi-automatic rifles in a matter of a few hours or
12 less. Polymer80 even touted its superior customer service that is on standby to assist
13 its customers in manufacturing firearms from its kits. “We want to give the
14 customers all the tools they need, as much as we can anyway, to complete this
15 product.”¹⁸

16 65. By selling kits and all the component parts together with the means to
17 quickly, easily, and readily convert the kits and parts into operable firearms,
18 Polymer80 effectively put firearms into circulation while subverting regulations that
19 apply to the sale of firearms. This uniquely dangerous method of distribution placed
20 the public at risk and allowed and attracted dangerous prohibited users—like the
21 shooter who ambushed Plaintiffs—to obtain their products for use in violent crime.

22 66. Defendants’ sales practices make a mockery of federal and state
23 background check laws. Before completing each sale, Defendants not only failed to
24 conduct formal background checks or require its distributors/resellers to do so, on
25 information and belief, Defendants asked direct retail customers to merely “self-
26 _____

27 ¹⁷ ATF Affidavit at ¶¶ 37-45.

28 ¹⁸ Shooters Nation, *020 Dan McCalmon of Polymer 80*, YOUTUBE (Aug. 10, 2018),
available at <https://www.youtube.com/watch?v=nybZ3iNfUhU>.

1 certify” that they do not have a felony record. By doing so, Defendants knowingly
2 flouted federal and state law by projecting compliance through an utterly ineffective
3 system. Not surprisingly, ATF has confirmed that Polymer80, or a reseller, sold Buy
4 Build Shoot kits to addresses in California where individuals with felony convictions
5 resided.¹⁹

6 67. Polymer80 was sued on June 24, 2020, by the Attorney General for the
7 District of Columbia for illegally selling ghost gun frame and receiver kits into the
8 District of Columbia. That lawsuit put Polymer80 on notice that in 2017, the District
9 recovered three ghost guns, followed by 25 in 2018, and 116 in 2019; that the District
10 was on track to set a new record in 2020, with 106 ghost guns recovered between
11 January 1 and May 29 alone; that of the 250 ghost guns recovered since 2017, 208
12 were produced by Polymer80; and that Polymer80 handguns had been recovered in
13 connection with nine homicides in the District.

14 68. The shooter was within the class of foreseeable users, and indeed was
15 part of the intended market, for Defendants’ ghost gun kits, even though federal and
16 California law prohibited the shooter from purchasing, owning or possessing firearms
17 because of his prior felony criminal history.

18 69. Defendants’ method of distribution and marketing—direct to purchasers
19 with no formal background check necessary and untraceable to the authorities, and
20 indirect through resellers without a serial number or any reasonable measures to
21 ensure sales only to eligible purchasers—was foreseeably attractive to a person with
22 the shooter’s background. Prior to the ambush, Defendants knew that this means of
23 distribution and marketing would be particularly attractive to prohibited users like
24 the shooter.

25 70. Defendants nevertheless disregarded the foreseeable risk that their
26 reckless marketing, sales, and distribution of unserialized ghost gun kits and parts
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19 ATF Affidavit at ¶ 87.

1 would cause their products to end up in the hands of dangerous prohibited users to
2 ultimately be used in crimes. They took no reasonable steps to prevent their product
3 from ending up in the hands of prohibited individuals like the shooter. The shooter
4 was able to obtain one of Defendants’ firearm kit products and chose to ambush
5 Deputies Apolinar and Perez with a Polymer80 firearm in substantial part because
6 Defendants disregarded these foreseeable risks.

7 **I. DEFENDANTS’ UNLAWFUL ACTS**

8 **A. The Federal Gun Control Act**

9 71. The Federal Gun Control Act (the “Gun Control Act”), 18 U.S.C. §
10 921(a)(3) (emphasis added), provides:

11 The term “firearm” means (A) any weapon (including a
12 starter gun) which will or is **designed to or may readily**
13 **be converted** to expel a projectile by the action of an
14 explosive; (B) the frame or receiver of any such weapon; (C)
any firearm muffler or firearm silencer; or (D) any
destructive device. Such term does not include an antique
firearm.

15 72. At all relevant times, Polymer80 sold Buy Build Shoot kits consisting of
16 all component parts of a firearm, including unfinished handgun frames, which are
17 “designed to” be and “may readily be converted” into an operable weapon. At all
18 relevant times Polymer80 also sold frame and receiver kits containing an unfinished
19 “frame” or “receiver” along with jigs and drill bits designed to enable a customer to
20 complete the frame or receiver. These too are “designed to” be and “may readily be
21 converted” into the finished frame or receiver of an operable weapon. Accordingly,
22 Polymer80 knowingly sold “firearms” under § 921(a)(3). In fact, in applying for a
23 warrant to search Polymer80’s premises, the ATF represented to a federal court that
24 “ATF Chief Counsel has ... determined that the Buy Build Shoot kits are, as a matter
25 of law, firearms pursuant to 18 U.S.C. section 921(a)(3).”²⁰

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20 ATF Affidavit at ¶ 65, note 6.

1 73. Because the kits that Polymer80 sold are firearms under federal law, a
2 number of requirements and obligations arise. As noted above, federal law requires
3 that firearm sellers obtain a federal firearm license (“FFL”) prior to engaging in the
4 business of dealing in firearms, *see* 18 U.S.C. § 922(a)(1), and prohibits the shipment
5 by an FFL of a firearm directly to a purchaser, § 922(a)(2), or sale or delivery of a
6 firearm by a seller with a FFL to a person residing in another state, § 922(b)(3).
7 Federal law also requires that firearms dealers and manufacturers conduct a
8 background check before transferring firearms, and that manufacturers inscribe
9 serial numbers on all firearms.²¹ Finally, federal law prohibits selling a firearm to
10 any purchaser who does not appear in person unless the purchaser submits an
11 affidavit as to the legality of the purchase from the seller along with a copy of a
12 notification to local law enforcement and acknowledgement of receipt of the
13 notification, § 922(c).

14 74. At all relevant times, Defendants knowingly sold firearms in the form of
15 ghost gun kits without serial numbers and without conducting or requiring
16 background checks or other reasonable steps to ensure eligibility to purchase a gun.
17 Defendants also sold and shipped kits directly to purchasers who did not either
18 appear in person or submit an affidavit as to the legality of the purchase along with a
19 copy of notification to local law enforcement. Finally, Defendants, based in Nevada,
20 knowingly sold and delivered firearms to purchasers residing in other states,
21 including California.

22 75. Defendants’ above-described business practices and failures to comply
23 with federal firearm statutes and regulations were a proximate cause of the injuries
24 sustained by Plaintiffs when they were ambushed, as well as of the overall increase
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27 ²¹ 18 U.S.C. §§ 922(t)(1) and 923(i). Polymer80 is federally licensed to manufacture
28 firearms, and is therefore subject to the requirements for “licensed manufacturers” set
forth in 18 U.S.C. § 922 *et seq.*

1 in ghost gun-related shootings and ghost gun-related criminal activity in California
2 and the Los Angeles area.

3 **B. The California Unsafe Handgun Act**

4 76. In 1999, California passed the Unsafe Handgun Act (“CUHA”), Cal.
5 Penal Code sections 31900, et seq., to establish safety standards for all handguns
6 manufactured, imported, and sold in the state.

7 77. The primary enforcement clause of CUHA requires that “[a] person in
8 this state who manufactures or causes to be manufactured, imports into the state for
9 sale, keeps for sale, offers or exposes for sale, gives, or lends an unsafe handgun shall
10 be punished by imprisonment in a county jail not exceeding one year.”²²

11 78. Moreover, CUHA’s certification requirement mandates that “[e]very
12 person who imports into the state for sale, keeps for sale, or offers or exposes for sale
13 any firearm shall certify under penalty of perjury and any other remedy provided by
14 law that every model, kind, class, style, or type of pistol, revolver, or other firearm
15 capable of being concealed upon the person that the person imports, keeps, or exposes
16 for sale is not an unsafe handgun[.]”²³

17 79. An “unsafe handgun” is defined as “any pistol, revolver, or other firearm
18 capable of being concealed upon the person” that does not have certain safety devices,
19 meet firing requirements, or satisfy drop safety requirements.²⁴ An “unsafe handgun”
20 also includes, for firearms manufactured after a certain date and not already listed
21 on the roster of handguns tested and determined by the Department of Justice not to
22 be unsafe, handguns that lack a chamber load indicator and magazine disconnect
23 mechanism.

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²² Cal. Penal Code § 32000(a).

²³ Cal. Penal Code § 32005(b).

²⁴ Cal. Penal Code § 31910.

1 80. Upon information and belief, Polymer80-assembled handguns, originally
2 sold by Defendants as kits, do not comply with CUHA because, among other reasons,
3 they do not meet CUHA's chamber load indicator and magazine disconnect
4 mechanism requirements.

5 81. As mentioned, CUHA charges the California Department of Justice with
6 compiling and maintaining a roster of handguns that have been tested and
7 determined not to be unsafe, and therefore, “may be sold in this state.”²⁵

8 82. The kits sold by Defendants intended to be assembled into handguns
9 and the assembled Polymer80 handguns – like the Polymer80 PF940c used to shoot
10 the Plaintiffs – are not listed on the Roster of Certified Handguns maintained by the
11 State of California.²⁶

12 83. At all relevant times, Defendants knowingly aided and abetted the
13 manufacture of handguns that do not meet the safety requirements of CUHA by
14 marketing, selling, and transferring all of the components, parts, materials, tools and
15 instructional videos needed to build an unsafe handgun in the state.

16 84. Defendants’ actions in aiding and abetting the manufacture of unsafe
17 handguns in California – including, on information and belief, their aiding and
18 abetting the manufacture in California of the Polymer80 PF940c handgun used to
19 shoot Plaintiffs – were a proximate cause of the injuries sustained by Plaintiffs
20 during their ambush, as well as of the overall increase in ghost gun-related shootings
21 and firearms-related illegal activity in the Los Angeles area.

22 **C. California’s Assembly of Firearms Law**

23 85. Under California’s Assembly of Firearms Law, any firearm
24 “manufactured or assembled from polymer plastic” must contain “3.7 ounces of
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26 ²⁵ Cal. Penal Code § 32015; *Nat’l Shooting Sports Foundation, Inc. v. State of*
27 *California*, 6 Cal. App. 5th 298 (2016).

28 ²⁶ State of California Dep’t. of Justice, “Handguns Certified for Sale,”
<https://oag.ca.gov/firearms/certified-handguns/search>.

1 material type 17-4 PH stainless steel ... embedded within the plastic upon fabrication
2 or construction with the unique serial number engraved or otherwise permanently
3 affixed in a manner that meets or exceeds the requirements imposed on licensed
4 importers and licensed manufacturers of firearms pursuant to subsection (i) of
5 Section 923 of Title 18 of the United States Code and regulations issued pursuant
6 thereto.”

7 86. A purpose of the California’s Assembly of Firearms Law was to prevent
8 incidents like the shooting of Plaintiffs by ensuring the serialization of firearms,
9 increasing the probability that shooters would be apprehended and punished, and
10 thereby dissuading would-be shooters from attempting such crimes.

11 87. Defendants knowingly sold Buy Build Shoot kits and unfinished pistol
12 frame kits that – like the assembled Polymer80 PF940c pistol used to shoot Plaintiffs
13 – do not contain a unique serial number engraved or permanently affixed pursuant to
14 Section 923 of the Gun Control Act, as required under California law.

15 88. Defendants intentionally highlight the unserialized nature of these
16 firearms in their marketing even though they know that this feature of their product
17 makes them particularly attractive to dangerous prohibited purchasers.

18 89. Defendants’ actions of selling, aiding, and abetting the manufacture and
19 assembly of firearms that fail to comply with California’s serialization requirement –
20 including, on information and belief, their aiding and abetting the manufacture in
21 California of the Polymer80 PF940c handgun used to shoot Plaintiffs – were a
22 proximate cause of the injuries sustained by Plaintiffs when they were ambushed, as
23 well as of the overall increase in ghost gun-related shootings and illegal ghost gun-
24 related criminal activity in the Los Angeles area.

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1 **CAUSES OF ACTION**
2 **COUNT I – NEGLIGENCE**

3 *(Against all Defendants)*

4 90. Plaintiffs incorporate and reallege the above paragraphs as if stated
5 fully herein.

6 91. At all relevant times, Defendants were subject to the general duty
7 imposed on all persons and entities to act reasonably not to expose others to
8 reasonably foreseeable risks of injury.

9 92. In fact, as sellers of ghost gun kits and unfinished frames and receivers,
10 Defendants are subject to the highest duty of care because of the danger that their
11 products can cause.

12 93. Defendants had a duty to exercise reasonable care in marketing,
13 distributing, and selling ghost gun kits and components and to refrain from engaging
14 in any activity creating reasonably foreseeable risks of injury to others. A breach of
15 such a duty constitutes negligence.

16 94. Defendants acted illegally, negligently, recklessly, with malice and
17 oppression, despicably, and in conscious disregard for the health and safety of others,
18 when they sold and injected into the market the firearm kit and components that
19 were thereafter finished and assembled into the operable firearm used to ambush
20 and shoot Sheriff's Deputies Apolinar and Perez.

21 95. At all relevant times, Defendants' negligent, reckless, despicable, and
22 malicious conduct, and their conscious disregard for the health and safety of others,
23 included but was not limited to:

- 24 a. Defendants knew that background checks prior to the purchase of firearms
25 and serialization of firearms were required by California and federal law.
26 Defendants knew that background checks and serialization of firearms are
27 effective measures in preventing and reducing violent crimes. They knew
28 that these were important safety requirements. At all times, Defendants

1 knew or should have known that the proliferation of ghost guns was a
2 problem in California and was contributing to criminal conduct in
3 California. They knew or should have known that selling unserialized ghost
4 guns kits without background checks would attract would-be criminals as
5 purchasers. They knew or should have known that selling unserialized
6 ghost gun kits without background checks would provide to felons, who
7 otherwise were prohibited from owning weapons, easy access to firearms
8 capable of inflicting great bodily injury or death. They knew or should have
9 known that selling unserialized ghost gun kits without background checks
10 would enable, empower, and/or embolden criminals to commit violent
11 crimes that they would not otherwise have committed. They knew or should
12 have known that continued sales of firearms without background checks or
13 serialization would likely cause bodily injury and/or death to innocent
14 people, such as Plaintiffs.

- 15 b. Despite their knowledge, Defendants intentionally designed, constituted,
16 packaged, marketed, advertised, and sold ghost gun kits. In fact, they went
17 even further by intentionally designing, constituting, packaging,
18 marketing, advertising, and selling ghost gun kits in such a manner as to
19 make it easy for people with no special equipment or training to quickly
20 assemble a finished and usable firearm. Defendants intentionally designed,
21 constituted, packaged, marketed, advertised, and sold ghost gun kits that
22 were at least as dangerous as a finished firearm (because of their easy
23 conversion to a finished firearm) but were removed from the legal
24 protections, background checks, serialization and other safety requirements
25 that are mandatory in the context of firearm sales, even though Defendants
26 knew of the serious harm this would inflict on, and which would be borne
27 by, innocent members of the public including law enforcement officers
28 attempting to combat crime.

- 1 c. Despite their knowledge that their ghost gun kits were especially attractive
2 to criminals, and that this would inevitably result in serious injury or death
3 to innocent people, Defendants intentionally chose not to take any
4 reasonable steps to verify (or require resellers to attempt to verify) that
5 purchasers or subsequent transferees were not legally prohibited from
6 purchasing or possessing a firearm, and/or unfit to safely possess a firearm.
- 7 d. Defendants chose to overlook the highly foreseeable and even inevitable
8 risk that a number of those who chose to buy their ghost guns would be
9 criminals who otherwise would not have gained access to such untraceable
10 guns, that a number of those buyers would attack innocent people using the
11 ghost guns, and that a number of those attacks would result in serious
12 injuries or deaths that otherwise would not have occurred. They chose to
13 overlook this harm, and to intentionally embrace it, because they wanted to
14 keep selling ghost guns and making money from those sales. They valued
15 their profits over the lives of innocent people, and this conduct was
16 outrageous, despicable and shocking to the conscience.

17 96. Defendants' negligence was a direct and proximate cause of harm to
18 Plaintiffs, by causing and allowing the shooter to gain unlawful possession of a
19 Polymer80 ghost gun firearm, which he chose to use and did use to ambush Sheriff's
20 Deputies Apolinar and Perez.

21 97. In addition, Defendants knowingly violated the requirements of federal
22 law, including violations of 18 U.S.C. § 922 and 26 U.S.C. § 5842, by selling firearms
23 without serial numbers and without conducting background checks; as well as
24 California firearms laws, including violations of Cal. Penal Code §§ 31900, et seq. and
25 California's Assembly of Firearms Law, by causing to be manufactured in California
26 and aiding and abetting the manufacture and possession in California of unsafe and
27 unserialized handguns, including the Polymer80 PF940c pistol used to shoot
28 Plaintiffs.

1 98. The knowing violations of law by Defendants were a direct and
2 proximate cause of the injuries to Plaintiffs. These laws are intended to protect
3 public safety by preventing the sale and transfer of firearms to dangerous persons,
4 including especially to individuals with disqualifying criminal records, and
5 preventing access to and use of unsafe handguns across the country and in
6 California. Defendants flouted those laws for profit, and consciously disregarded the
7 known and foreseeable risks of its business practices, and in so doing, directly and
8 proximately caused injury to Plaintiffs, who are shooting victims within the class of
9 persons these laws were designed to protect, and suffered the type of harm the laws
10 are designed to protect against.

11 99. As a direct and proximate result of the aforementioned conduct and
12 breach of duty, Plaintiffs sustained and will sustain physical pain, mental suffering,
13 loss of enjoyment of life, anxiety, and emotional distress.

14 100. As a direct and proximate result of the aforementioned conduct and
15 breach of duty, Plaintiffs have incurred and will continue to incur economic damages,
16 including lost future income, lost earning capacity, and past and future medical
17 expenses and related expenses.

18 101. Accordingly, Plaintiffs are entitled to recovery against Defendants in an
19 amount to be determined at trial.

20 **COUNT II- PUBLIC NUISANCE**

21 *(Against All Defendants)*

22 102. Plaintiffs incorporate and re-allege the above paragraphs as if stated
23 fully herein.

24 103. Defendants created a public nuisance by marketing, selling and
25 distributing ghost gun kits to California residents without serial numbers, without
26 background checks, without complying with California gun laws, and without taking
27 any reasonable steps to ensure that purchasers and transferees were not prohibited
28 from purchasing or possessing firearms, despite knowing and consciously

1 disregarding the risks that they were (a) creating an illegal market for ghost guns
2 and (b) directly and indirectly distributing ghost guns to dangerous persons who are
3 prohibited from purchasing or possessing firearms under federal and state law and
4 who were likely to obtain and use such firearms for criminal acts and/or transfer
5 such firearms to other prohibited persons likely to do the same. Defendants' actions
6 have created a significant threat to the public right of health and safety in public
7 spaces and have unreasonably interfered with public health and safety. Defendants
8 have facilitated the purchase and acquisition of unserialized, untraceable guns by
9 individuals prohibited from acquiring and possessing guns by the state and federal
10 legislatures, and have acted in a manner that is offensive and intolerable, with
11 malice and oppression and in conscious disregard of the health and safety of others.
12 Defendants' ongoing business practices have resulted in dangerous conditions that
13 threaten citizens across the country, in the State of California, and in the City of Los
14 Angeles.

15 104. In one instance, the nuisance created by Defendants proximately caused
16 direct and special injuries to Plaintiffs—who were shot by one of Defendants'
17 firearms while serving their community as Los Angeles County Sheriff's Deputies.
18 Those injuries are different in kind from the above-described injuries to the general
19 public. Defendants' actions resulted in the shooter possessing and choosing to use a
20 Polymer80 ghost gun, providing him the opportunity and equipment necessary to
21 harm Plaintiffs.

22 105. As a result of the actions, inactions and omissions of Defendants,
23 Plaintiffs have suffered and will continue to suffer general, compensatory and
24 consequential damages.

25 REQUESTED RELIEF

26 WHEREFORE, the Plaintiffs respectfully request that this Court enter
27 judgment in their favor and that the Court award the following relief:

28 a) Noneconomic damages according to proof at trial;

- 1 b) Economic damages according to proof at trial;
2 c) Pre-judgment and post-judgment interest in accordance with California
3 law;
4 d) Punitive and exemplary damages in an amount sufficient to punish and
5 deter Defendants' conduct;
6 e) Costs of suit and attorneys' fees to the fullest extent permitted by law;
7 f) Such other relief as the Court may deem just and proper.
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9 Dated: August 9, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER

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forthcoming

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DEMAND FOR JURY TRIAL

Plaintiffs hereby request a trial by jury.

Dated: August 9, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER



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