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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **FOR THE COUNTY OF LOS ANGELES**

18 THE PEOPLE OF THE STATE OF CALIFORNIA,

19 Plaintiffs,

20 vs.

21
22 POLYMER80, INC., a Nevada Corporation;
23 DAVID BORGES, an individual; LORAN
KELLEY, an individual,

24 Defendants.
25
26
27
28

Case No. 21STCV06257

[Related to Case No. 21STCV29196]

[Assigned for all purposes to the Hon. Daniel
S. Murphy, Department 32]

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT OR, IN THE
ALTERNATIVE, FOR SUMMARY
ADJUDICATION**

Date: June 5, 2023

Time: 8:30 a.m.

Department: 32

Reservation ID: 428792836008

Complaint Filed: February 17, 2021

Trial Date: May 30, 2023

1 Defendants Polymer80, Inc., David Borges, and Loran Kelley have moved the Court for
2 Summary Judgment or, in the alternative, for Summary Adjudication on Plaintiff's causes of action
3 for violation of the California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.*, and
4 for public nuisance.

5 Defendants are entitled to summary judgment under California Code of Civil Procedure §
6 437c. The Court finds that "there is no triable issue as to any material fact and that [Defendants] are
7 entitled to a judgment as a matter of law," *Fajardo v. Dailey* (2022) 85 Cal. App. 5th 221, 225, because
8 Plaintiff's claims are preempted by the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §
9 7901 *et seq.*, and because Plaintiff cannot establish that Defendants caused Plaintiff's alleged harms.

10 Alternatively, Defendants are entitled to summary adjudication of each of Plaintiff's causes of
11 action under California Code of Civil Procedure § 437c(f) because each of Plaintiff's causes of action
12 is individually preempted by PLCAA, each of Plaintiff's causes of action is individually barred by
13 Plaintiff's failure to establish causation, and Plaintiff's public nuisance claim (Count II) is barred by
14 Plaintiff's failure to demonstrate a cognizable public right under California law.

15 Accordingly, the Court GRANTS Defendants' Motion and dismisses Plaintiff's causes of
16 action WITH PREJUDICE.

17 DATED:

18 By: _____
19 The Honorable Daniel S. Murphy

1 **PROOF OF SERVICE**

2 *The People of The State of California vs. Polymer80, Inc., David Borges, Loran Kelley*
3 Case No. 21STCV06257

4 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
5 **FOR THE COUNTY OF LOS ANGELES**

6 I am employed in the County of Jefferson, State of Alabama. I am over the age of eighteen
7 years and not a party to this action. My business address is 1819 5th Avenue N, Birmingham, AL
8 35203. On March 16, 2023, I served true and correct copies of the following document(s) described
9 as **[PROPOSED] ORDER GRANTING DEFENDANTS’ MOTION FOR SUMMARY**
10 **JUDGMENT OR, IN THE ALTERNATIVE, FOR SUMMARY ADJUDICATION** on the
11 interested parties in this action as follows:

12 **SEE ATTACHED SERVICE LIST**

13 **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an
14 agreement of the parties to accept service by e-mail or electronic transmission, I caused the
15 document(s) to be sent from e-mail address clamar@bradley.com to the persons at the e-mail addresses
16 listed in the Service List. I did not receive, within a reasonable time after the transmission, any
17 electronic message or other indication that the transmission unsuccessful.

18 I declare under penalty of perjury under the laws of the State of California that the foregoing
19 is true and correct.

20 Executed on March 16, 2023, at Birmingham, Alabama.

21 */s/ W. Chadwick Lamar, Jr.*
22 _____
23 W. Chadwick Lamar, Jr.

1 **SERVICE LIST**

2 *The People of The State of California vs. Polymer80, Inc., David Borges, Loran Kelley*
3 *Case No. 21STCV06257*

4 **OFFICE OF THE LOS ANGELES CITY**
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