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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.

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

24 Defendants.  
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**Case No. 21STCV06257**

[Related to Case No. 21STCV29196]

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

**SEPARATE STATEMENT OF  
UNDISPUTED MATERIAL FACTS IN  
SUPPORT OF 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 (collectively, “Defendants”)  
2 submit the following Statement of Undisputed Material Facts in support of their Motion for Summary  
3 Judgment or, in the alternative, for Summary Adjudication pursuant to Code of Civil Procedure  
4 § 437c(b)(1) and Rule 3.1350 of the California Rules of Court.

5 **UNDISPUTED MATERIAL FACTS**

6 **Issue No. 1 for Summary Judgment:** Defendants request Summary Judgment because  
7 Plaintiff’s causes of action fail as a matter of law, as they have not established a triable issue of fact  
8 sufficient to overcome preemption and dismissal under the Protection of Lawful Commerce in Arms  
9 Act (“PLCAA”). 15 U.S.C. § 7901 *et seq.* In the alternative, Defendants request Summary  
10 Adjudication of any claim barred by PLCAA.

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	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
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13	1. Polymer80, Inc., is a Nevada-based company that designs, manufactures, markets, and distributes, firearms, non-firearm products, and other innovative components and accessories.		
14	<b>Evidence:</b>		
15	Declaration of Loran Kelley at 2:6–7, attached to Declaration of Michael Marron as <b>Ex. A.</b>		
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17	2. Polymer80, Inc., has held a Federal Firearms License to conduct business as a manufacturer and dealer of firearms since 2016.		
18	<b>Evidence:</b>		
19	Declaration of Loran Kelley at 2:8–9, attached to Declaration of Michael Marron as <b>Ex. A.</b>		
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21	3. David Borges and Loran Kelley co-founded Polymer 80 in 2013.		
22	<b>Evidence:</b>		
23	Declaration of Loran Kelley at 2:10, attached to Declaration of Michael Marron as <b>Ex. A.</b>		
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	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
	<p>Deposition of Loran Kelley at 21:3–7, attached to Declaration of Michael Marron as <b>Ex. B.</b></p> <p>Deposition of David Borges, at 24:25–25:2, attached to Declaration of Michael Marron as <b>Ex. C.</b></p>		
4.	<p>David Borges was a part owner of Polymer80 from early 2013 until October 2021, and he served as the company’s CEO and CFO during that time.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 2:10–12, attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of David Borges, at 24:25–25:2, 55:20–56:2, attached to Declaration of Michael Marron as <b>Ex. C.</b></p>		
5.	<p>At all relevant times, Loran Kelly was a part owner of Polymer80 and currently serves as the company’s President and Chief Executive Officer.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 2:2–3, attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of Loran Kelley at 16:9–11, 21:21–24, attached to Declaration of Michael Marron as <b>Ex. B.</b></p>		
6.	<p>Plaintiff’s complaint focuses on three categories of Polymer80 products: unfinished frames and receivers, unfinished frame and receiver kits, and Buy Build Shoot kits.</p> <p><b>Evidence:</b></p> <p>Complaint for Injunctive Relief, Statutory Penalties, and Abatement for Violation of Bus. &amp; Prof. Code Section 17200 and Public Nuisance, at 11:4–14:5, attached to Declaration of Michael Marron as <b>Ex. D.</b></p>		
7.	<p>Polymer80 has developed and sold unfinished frames and receivers, <i>i.e.</i>, the part of a pistol or rifle which houses the</p>		

	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
1 2 3 4 5 6	<p>hammer, bolt or breechblock, and firing mechanism and to which the slide or the barrel and stock are assembled.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 2:22–24, attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		
7 8 9 10 11 12 13 14 15	<p>8. Unfinished frames and receivers are unfinished because each lacks (1) drilling, cutting, and machining in necessary places such that the product is unable to accept other components as-sold; and (2) other components, tools, and equipment necessary to machine the product into a functional frame or receiver.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 2:24–27, attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of Dan McCalmon, Vol. I, at 31:14–32:24, attached to Declaration of Michael Marron as <b>Ex. D.</b></p>		
16 17 18 19 20 21 22 23 24 25 26 27 28	<p>9. Armed with the necessary equipment, tools, and components, along with knowledge of the necessary steps, a customer could machine an unfinished frame into a functional frame in around “30 minutes to an hour” of workmanship; an unfinished receiver would take somewhat longer; and a complete build of a functional weapon would take longer still, about “[t]wo to three hours.” A finished frame or receiver could then be used as part of a pistol or rifle.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 2:27–3:3 attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of Loran Kelley at 139:2–9, attached to Declaration of Michael Marron as <b>Ex. B.</b></p> <p>Deposition of Dan McCalmon, Vol. I, at 103:14–104:8, attached to Declaration of Michael Marron as <b>Ex. D.</b></p>		

	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
10.	<p>For an example of the workmanship required to machine an unfinished frame into a functional frame, the PF940C pistol frame as sold lacked drilling for pin holes, cutting for slide installation, and machining for installation of the block barrel and recoil spring.</p> <p><b>Evidence:</b> ATF’s Determination Letter and Polymer80’s Submission Letter at 2–3, 11, attached to Declaration of Michael Marron as <b>Ex. F.</b></p>		
11.	<p>Polymer80 has developed and sold unfinished frame and receiver kits. Some kits, such as the PF940V2 pistol frame kit, contained an unfinished frame or receiver along with other components (such as a serialization plate, locking block rail system, rear rail module, and pins) and machining tools (such as a jig, drill bits, and end mill) that are used in the machining process.</p> <p><b>Evidence:</b> Declaration of Loran Kelley at 3:4–7 attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		
12.	<p>As of August 2022, Polymer80 no longer offered the jig, the attachment that aligned the product for drilling, or drill bits with its frame kits.</p> <p><b>Evidence:</b> Declaration of Loran Kelley at 3:7–9 attached to Declaration of Michael Marron as <b>Ex. A.</b> Deposition of Dan McCalmon, Vol. I, at 32:2–24, attached to Declaration of Michael Marron as <b>Ex. D.</b></p>		
13.	<p>Armed with the necessary equipment, tools, components, and know-how, a customer could potentially machine an unfinished frame into a functional frame in around “30 minutes to an hour” of workmanship; an unfinished receiver would take longer; and complete manufacture of a functional weapon would take longer still. A finished</p>		

	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
	<p>frame or receiver could then be used a part of a pistol or rifle.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 3:9–14 attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of Loran Kelley at 139:2–9, attached to Declaration of Michael Marron as <b>Ex. B.</b></p> <p>Deposition of Dan McCalmon, Vol. I, at 103:14–104:8, attached to Declaration of Michael Marron as <b>Ex. D.</b></p>		
14.	<p>These kits did not include any other components necessary to assemble a functional weapon.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 3:12–13 attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		
15.	<p>In 2019 and 2020, Polymer80 developed and sold a pistol kit known as a “Buy Build Shoot” kit.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 3:15–16, attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		
16.	<p>The Buy Build Shoot kit came with an unfinished-frame kit and other components and tools that, with additional machining, equipment, and effort, could be used to build a functional weapon.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 3:16–17 attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of Loran Kelley at 138:6–139:9, attached to Declaration of Michael Marron as <b>Ex. B.</b></p>		
17.	<p>Polymer80 stopped marketing and selling this product around December 2020.</p> <p><b>Evidence:</b></p>		

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	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
	<p>Declaration of Loran Kelley at 3:17–18 attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Deposition of Loran Kelley at 95:25–97:4, attached to Declaration of Michael Marron as <b>Ex. B.</b></p> <p>Deposition of Dan McCalmon, Vol. I, at 33:19–34:1, attached to Declaration of Michael Marron as <b>Ex. D.</b></p>		
18.	<p>Polymer80 has entered into a Cooperation Agreement with the United States Attorney’s Office for the Central District of California. Polymer80 agreed that, between the USAO and Polymer80, Buy Build Shoot kits, Buy Build Shoot kits and “similar combinations of parts from which a complete firearm can be assembled . . . are to be classified and considered as ‘firearms’ and ‘handguns’ as those terms are defined under federal law and regulations” that were in effect at the time. (Cooperation Agreement ¶ 7). In response, the USAO agreed to “not prosecute Polymer80 . . . related to Polymer80’s manufacture and sale of ‘Buy, Build, Shoot’ firearms kits” on the condition of Polymer80’s “full compliance” with the agreement. (Cooperation Agreement ¶ 11). Importantly, that agreement was “not intended to be used in any other matter, including any civil . . . action, nor its terms intended to constitute admissions” by Polymer80. (Cooperation Agreement ¶ 6).</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 3:18–25 attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Cooperation Agreement at 1 ¶ 6, 2 ¶ 7, 3 ¶ 11, attached to Declaration of Michael Marron as <b>Ex. G.</b></p>		
19.	<p>Polymer80 is committed to complying with the Cooperation Agreement.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 3:25 attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		

	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
20.	<p>Polymer80 has developed and sold other individual components, such as slide assemblies and magazines, and it has also separately sold machining tools on its website</p> <p><b>Evidence:</b> Declaration of Loran Kelley at 3:26–28, attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		
21.	<p>No product relevant to this lawsuit could be machined and assembled into a functional weapon without additional equipment and machining workmanship.</p> <p><b>Evidence:</b> Declaration of Loran Kelley at 4:1–2, attached to Declaration of Michael Marron as <b>Ex. A.</b></p>		
22.	<p>Polymer80 ceased selling all components and kits into California around August 2022 in response to new California legislation.</p> <p><b>Evidence:</b> Declaration of Loran Kelley at 4:3–4, attached to Declaration of Michael Marron as <b>Ex. A.</b>  Deposition of Loran Kelley at 100:12–101:15, attached to Declaration of Michael Marron as <b>Ex. B.</b></p>		
23.	<p>Plaintiff alleges that Defendants’ manufacturing, marketing, and distributing unfinished frames and receivers, unfinished frame and receiver kits, and “Buy Build Shoot” kits caused an “increase in ghost gun-related violence and illegal activity in Los Angeles,” “a threat to the safety and well-being of the people of Los Angeles,” and “an increase in investigative costs and expenditure of law enforcement resources.”</p> <p><b>Evidence:</b> Complaint for Injunctive Relief, Statutory Penalties, and Abatement for Violation of Bus. &amp; Prof. Code Section 17200 and Public Nuisance, at 15:18–19, 24:6–7,</p>		



	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party's Response and Supporting Evidence</b>
	28:13–14, attached to Declaration of Michael Marron as <b>Ex. D.</b>		
24.	<p>There is no evidence that any Defendant knowingly and actively participated in any actual violation of a federal or state firearms statute.</p> <p><b>Evidence:</b></p> <p>Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H.</b></p>		
25.	<p>There is no evidence that any Defendant sold a product with knowledge of the purchaser's underlying criminal intent to commit an act of gun violence.</p> <p><b>Evidence:</b></p> <p>Declaration of Loran Kelley at 4:17–18, attached to Declaration of Michael Marron as <b>Ex. A.</b></p> <p>Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H.</b></p>		
26.	<p>There is no evidence that Los Angeles law enforcements investigations or officers have been adversely affected by Defendants' conduct in any cognizably actionable way, including supposed increases in investigative costs and expenditures of law enforcement resources.</p> <p><b>Evidence:</b></p> <p>Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 25:12–29:20 (Rog. No. 8), 29:21–34:5 (Rog. No. 9), attached to Declaration of Michael Marron as <b>Ex. H.</b></p>		
27.	<p>Although the record supports a finding in the abstract that Defendants expected that "some" purchasers would complete machining and assembly of Polymer80 products into complete weapons, or that purchasers have "contacted" Polymer80 "for assistance," the record does not support a finding that Defendants made a</p>		

	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
1 2 3 4 5 6 7 8 9	<p>sale to any actual purchaser, or provided assistance to any actual purchaser, with knowledge that the purchaser intended to violate the CUHA or another California firearms statute.</p> <p><b>Evidence:</b></p> <p>Deposition of Loran Kelley at 139:11–140:18, attached to Declaration of Michael Marron as <b>Ex. B</b>.</p> <p>Pl.’s Resp. to Def. Polymer80’s Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
10 11 12 13 14 15 16	<p>28. Although a complete weapon made from Polymer80 components does not contain “3.7 ounces of material type 17-4 PH stainless steel . . . embedded <i>within the plastic</i>,” Cal. Penal Law § 29180(b)(2)(B) (emphasis added), the product itself contains 3.7 ounces of steel.</p> <p><b>Evidence:</b></p> <p>Deposition of Loran Kelley at 198:23–201:24, attached to Declaration of Michael Marron as <b>Ex. B</b>.</p>		
17 18 19 20 21 22	<p>29. Plaintiff cites five individuals’ misuses of Polymer80 products but cannot explain how those misuses are sufficient to support its consumer-protection claims.</p> <p><b>Evidence:</b></p> <p>Pl.’s Resp. to Def. Polymer80’s Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
23 24 25 26 27 28	<p>30. California’s attorney general has admitted by letter and press conference that the ATF’s new regulation closed an existing “loophole[],” thus serving as an admission that Polymer80’s products were legal under federal law:</p> <ul style="list-style-type: none"> <li>• “Certain firearm dealers have capitalized on these <b>regulatory loopholes</b> . . . .” Letter from State Attorneys General to Hon. Merrick Garland at 1 (Aug. 19, 2021).</li> </ul>		

	Defendants' Undisputed Material Facts & Supporting Evidence		Opposing Party's Response and Supporting Evidence
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	<ul style="list-style-type: none"> <li>• “The newly proposed definitions leave no doubt that ghost guns, and other firearms <b><u>now treated as beyond federal regulation</u></b>, are indeed subject to the Gun Control Act and federal regulation.” (<i>Id.</i>)</li> <li>• “The ATF’s Proposed Rule will bring federal law <b><u>up to speed</u></b> with California law, and make it clear that unfinished frames and receivers are firearms, and will be regulated as such.” Press Release, Hon. Rob Bonta, Attorney General Bonta Applauds Biden Administration Effort to Regulate Ghost Guns at 2 (Aug. 19, 2021).</li> </ul> <p><b>Evidence:</b> Letter from State Attorneys General to Hon. Merrick Garland at 1 (Aug. 19, 2021), attached to Declaration of Michael Marron as <b>Ex. I.</b> Press Release, Hon. Rob Bonta, Attorney General Bonta Applauds Biden Administration Effort to Regulate Ghost Guns at 2 (Aug. 19, 2021), attached to Declaration of Michael Marron as <b>Ex. J.</b></p>		
20 21 22 23 24 25	<p>31. Polymer80 has announced that it “will comply with” ATF’s new interpretations of the Gun Control Act despite its sharp disagreement with the legality of those actions.</p> <p><b>Evidence:</b> Polymer80 Announcement, attached to Declaration of Michael Marron as <b>Ex. L.</b></p>		
26 27 28	<p>32. Many of Polymer80’s products could be mated with other readily available products manufactured by Polymer80 or other companies that meet CUHA’s requirements.</p>		

	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>	<b>Opposing Party's Response and Supporting Evidence</b>
	<p><b>Evidence:</b>            Defs. Supplemental Resp. and Objections to Plaintiff's Fourth Set of Special Rogs. to Defs., at 11:26–27 (Rog. No. 42), attached to Declaration of Michael Marron as <b>Ex. K.</b></p>	

**Issue No. 2 for Summary Judgment:** Defendants request Summary Judgment because Plaintiff's causes of action fail as a matter of law, as they cannot establish a triable issue of fact as to causation. In the alternative, Defendants request Summary Adjudication of any claim for which Plaintiff cannot establish causation.

	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>	<b>Opposing Party's Response and Supporting Evidence</b>
33.	<p>Polymer80 manufactures and distributes firearms components lawfully.  <b>Evidence:</b>            Declaration of Loran Kelley at 4:9, attached to Declaration of Michael Marron as <b>Ex. A</b></p>	
34.	<p>There is no evidence that Polymer80's business practices proximately caused criminal possession of a firearm or caused any firearm-related crime to occur.  <b>Evidence:</b>            Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), 34:7–37:5 (Rog. No. 10), attached to Declaration of Michael Marron as <b>Ex. H.</b></p>	
35.	<p>There is no evidence that Polymer80 knew its products were being pervasively used in the commission of any firearms-related crime, that Polymer80 was complicit in any crime, or that Polymer80 caused any crime to occur through any act or omission.  <b>Evidence:</b>            Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), 34:7–37:5 (Rog.</p>	

	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party's Response and Supporting Evidence</b>
	<p>No. 10), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p> <p>Deposition of Loran Kelley at 114:15–16, attached to Declaration of Michael Marron as <b>Ex. B</b>.</p>		
36.	<p>There is no evidence that Defendants knowingly controlled, helped, or furthered the commission of any criminal misuse of a firearm.</p> <p><b>Evidence:</b></p> <p>Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), 34:7–37:5 (Rog. No. 10), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
37.	<p>Plaintiff cites five individuals' misuses of Polymer80 products but cannot explain how those misuses are sufficient to support its consumer-protection claims.</p> <p><b>Evidence:</b></p> <p>Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
38.	<p>Plaintiff cites no evidence of a crime that would not have occurred had Polymer80's products not been in California.</p> <p><b>Evidence:</b></p> <p>Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
39.	<p>Although Plaintiff states in conclusory fashion that "law enforcement officers . . . are frustrated" and their jobs "are made more dangerous, by the proliferation of untraceable firearms built from Polymer80 kits," Plaintiff does not provide evidence of any individual in California who criminally used a Polymer80 product but would not have committed the crime in the absence of Polymer80's conduct, and therefore cannot provide evidence of any specific law</p>		

	<b>Defendants’ Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party’s Response and Supporting Evidence</b>
	<p>enforcement officer who is frustrated or whose job is made more dangerous by Polymer80’s business practices; what specifically frustrates these hypothetical officers or makes their jobs more dangerous by Polymer80’s business practices; a specific instance of when these hypothetical officers were frustrated or when their jobs were made more dangerous by Polymer80’s business practices; or why Polymer80’s business practices frustrate these hypothetical officers or why their jobs are made more difficult by Polymer80’s business practices.</p> <p><b>Evidence:</b></p> <p>Pl.’s Resp. to Def. Polymer80’s Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2), 25:12–29:20 (Rog. No. 8), 29:21–34:5 (Rog. No. 9), attached to Declaration of Michael Marron as <b>Ex. H.</b></p>		
40.	<p>There is no evidence that Polymer80’s business conduct harmed any California firearms dealer or consumer as a consumer. Instead, Plaintiff speculates that some unidentified firearm dealer (or firearm dealers generally) has been harmed in two ways. First, that Polymer80’s alleged noncompliance with federal and state regulations has given Polymer80 an unfair advantage because other firearm dealers comply and incur “economic costs.” Second, that Polymer80’s business practices might divert two customer bases from these unidentified firearm dealers: those prohibited purchasers who cannot lawfully obtain a firearm and those “who do not want to submit to background checks.”</p> <p><b>Evidence:</b></p> <p>Pl.’s Resp. to Def. Polymer80’s Special Rogs., Set One, at 23:14–25:10 (Rog. No. 7), attached to Declaration of Michael Marron as <b>Ex. H.</b></p>		
41.	<p>Polymer80 has held a federal firearms license to conduct business as a manufacturer and dealer of firearms since 2016, and it complies with all federal and state laws and regulations.</p>		

	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>		<b>Opposing Party's Response and Supporting Evidence</b>
	<p><b><i>Evidence:</i></b> Declaration of Loran Kelley at 2:8–9, 4:9–16, attached to Declaration of Michael Marron as <b>Ex. A</b></p>		
42.	<p>Polymer80 ceased selling all firearms components into California around June 2022.</p> <p><b><i>Evidence:</i></b> Declaration of Loran Kelley at 4:3–4, attached to Declaration of Michael Marron as <b>Ex. A</b> Deposition of Loran Kelley at 100:12–101:15, attached to Declaration of Michael Marron as <b>Ex. B</b>.</p>		
43.	<p>Plaintiff failed to produce any evidence establishing that Polymer80's business conduct in fact diverted the alleged customer bases from any California firearm dealer or otherwise harmed any consumer as a consumer.</p> <p><b><i>Evidence:</i></b> Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 23:14–25:10 (Rog. No. 7), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
44.	<p>Plaintiff provided only a bullet-point list of the ways in which Polymer80's business practices are allegedly unlawful.</p> <p><b><i>Evidence:</i></b> Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 25:12–29:20 (Rog. No. 8), 29:21–34:5 (Rog. No. 9), attached to Declaration of Michael Marron as <b>Ex. H</b>.</p>		
45.	<p>Plaintiff has produced no evidence that Polymer80 knew, intended, or foresaw that a third-party individual would criminally misuse a Polymer80 product.</p> <p><b><i>Evidence:</i></b> Pl.'s Resp. to Def. Polymer80's Special Rogs., Set One, at 12:1–16:11 (Rog. No. 2),</p>		

	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>	<b>Opposing Party's Response and Supporting Evidence</b>
	25:12–29:20 (Rog. No. 8), attached to Declaration of Michael Marron as <b>Ex. H.</b>	

**Issue No. 3 for Summary Adjudication:** Defendants request Summary Adjudication as to Plaintiff's public-nuisance Claim (Count II) because Plaintiff's cannot establish as triable issue of fact as to the existence of a public right.

	<b>Defendants' Undisputed Material Facts &amp; Supporting Evidence</b>	<b>Opposing Party's Response and Supporting Evidence</b>
46.	Polymer80 manufactures and distributes firearms components lawfully. <b>Evidence:</b> Declaration of Loran Kelley at 4:9, attached to Declaration of Michael Marron as <b>Ex. A.</b>	
47.	There is no evidence that any Defendant used or affected real property or violated any statute or ordinance. <b>Evidence:</b> Declaration of Loran Kelley at 4:9, 4:16, attached to Declaration of Michael Marron as <b>Ex. A.</b>	

DATED: March 16, 2023

GREENSPOON MARDER LLP



By: \_\_\_\_\_

MICHAEL MARRON

Attorney for Defendants Polymer80, Inc., David Borges, and Loran Kelley



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 **SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF**  
10 **DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE,**  
11 **FOR SUMMARY ADJUDICATION** on the 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**  
5 **ATTORNEY**

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