1 2 3 4 5	GERMAIN D. LABAT (SBN 203907) germain.labat@gmlaw.com GREENSPOON MARDER LLP 1875 Century Park East, Suite 1900 Los Angeles, California 90067 Telephone: (323) 880-4520 Facsimile: (954) 771-9264 JOHN PARKER SWEENEY (MD SBN	MICHAEL MARRON (NY SBN 5146352) (Admitted <i>Pro Hac Vice</i>) michael.marron@gmlaw.com GREENSPOON MARDER LLP 590 Madison Avenue, Suite 1800 New York, NY 10022 Telephone: (212) 501-7673 Facsimile: (212) 524-5050
6	9106040024)	JAMES W. PORTER III (AL SBN 1704J66P)
7	(Admitted <i>Pro Hac Vice</i>) jsweeney@bradley.com	(Admitted <i>Pro Hac Vice</i>) jporter@bradley.com
8	MARC A. NARDONE (MD SBN 1112140291)	W. CHADWICK LAMAR JR. (AL SBN 4176M12Z)
9	(Admitted Pro Hac Vice)	(Admitted Pro Hac Vice)
10	mnardone@bradley.com BRADLEY ARANT BOULT CUMMINGS	clamar@bradley.com BRADLEY ARANT BOULT CUMMINGS
11	LLP 1615 L Street NW, Suite 1350	LLP 1819 5th Avenue N
12	Washington, DC 20036	Birmingham, AL 35203
13	Telephone: (202) 393-7150 Facsimile: (202) 347-1684	Telephone: (205) 521-8000 Facsimile: (205) 521-8800
14 15	Counsel to Defendants Polymer80, Inc., David Borges, and Loran Kelley	
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,	[Related to Case No. 21STCV29196]
20	- 1011111111111111111111111111111111111	[Assigned for all purposes to the Hon. Daniel S. Murphy, Department 32]
21	vs.	DECLARATION OF MICHAEL
22	POLYMER80, INC., a Nevada Corporation;	MARRON IN SUPPORT OF DEFENDANTS' MOTION FOR A STAY
23	DAVID BORGES, an individual; LORAN KELLEY, an individual,	Date: May 19, 2023
24	1122121, an marriann,	Time: 8:30 a.m. Department: 32
25	Defendants.	Reservation ID: 305522480553
26		Complaint Filed: February 17, 2021 Trial Date: May 30, 2023
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DECLARATION OF MICHAEL MARRON IN SUPPORT OF DEFENDANTS' MOTION FOR A STAY

- I, Michael Marron, declare as follows
- 1. I am Senior Counsel with the law firm of Greenspoon Marder LLP, an attorney at law duly licensed to practice in all of the Courts of the State of New York, and admitted *pro hac vice* to appear in this action on behalf of Defendants Polymer80, Inc., David Borges, and Loran Kelley. I respectfully submit this declaration in support of Defendants' Motion for a Stay.
- 2. I have personal knowledge of the facts set forth herein. If called and sworn as a witness, I could and would competently testify as to those facts
 - 3. Plaintiff initiated this action on February 17, 2021.
 - 4. This action is set for trial on May 30, 2023.
- 5. Plaintiff alleges in its Complaint that Defendants have violated the California Unsafe Handgun Act "because, among other reasons, [Polymer80's products] do not meet CUHA's chamber load indicator and magazine disconnect mechanism requirements." (Compl. ¶ 54).
- 6. Since March 2023, two California federal district courts have held that CUHA's chamber load indicator provision (Penal Code § 31910(b)(4)), magazine disconnect mechanism provision (id. § 31910(b)(5)), and microstamping provision (id. § 31910(b)(6)) violate the Second Amendment of the Constitution of the United States. See Renna v. Bonta (S.D. Cal. Apr. 3, 2023) No. 3:20-cv-02190-DMS-DEB, 2023 WL 2846937, appeal noticed (S.D. Cal. Apr. 14, 2023); Boland v. Bonta (C.D. Cal. Mar. 20, 2023) No. 8:22-cv-01421-CJC-ADS, 2023 WL 2588565, appeal docketed, No. 23-55276 (9th Cir. Mar. 27, 2023). (See Request for Judicial Notice in Support of Motion for Judgment on the Pleadings or, in the alternative, for a Stay ("RJN"), Exs. A–D). The Boland court's injunction against enforcement of the microstamping provision remains in effect. (RJN, Exs. C, D). The injunctions against enforcement of the chamber load indicator and magazine disconnect mechanism provisions are stayed pending appeal. (RJN, Ex. A at 30, Ex. D at 1).
- 7. In the *Boland* case, the United States Court of Appeals for the Ninth Circuit has ordered the clerk to "place this [appeal] on the next available calendar upon the completion of briefing." (RJN, Ex. D at 2).

- 8. The chamber load indicator, magazine disconnect mechanism, and microstamping provisions are unconstitutional as applied to Defendants in this case. *See Teixeira v. Cnty. of Alameda* (9th Cir. 2017) 873 F.3d 670, 678 (holding "would-be operator of a gun store" could "assert the subsidiary right to acquire arms on behalf of his potential customers"); *Jackson v. City & Cnty. of San Francisco* (9th Cir. 2014) 746 F.3d 953, 967–68 (holding the Second Amendment protects rights attendant to the "right to keep and bear arms").
- 9. The determinations of unconstitutionality and pending appeals over those determinations constitute good cause for a stay of the trial setting and otherwise justify the Court's exercise of its inherent authority to stay proceedings. Defendants should not, and indeed cannot, be subjected to liability based on held-to-be unconstitutional California firearms statutory provisions.
- 10. A stay will spare both the Court and the parties from wasting valuable resources and will entail a delay only to the extent necessary to ensure that Plaintiffs' case does not depend on unconstitutional and unenforceable firearms laws.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 27, 2023, in New York City, New York.

DATED: April 27, 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 Case No. 21STCV06257 3 SUPERIOR COURT OF THE STATE OF CALIFORNIA 4 FOR THE COUNTY OF LOS ANGELES 5 I am employed in the County of Jefferson, State of Alabama. I am over the age of eighteen 6 years and not a party to this action. My business address is 1819 5th Avenue N, Birmingham, AL 35203. On April 27, 2023, I served true and correct copies of the following document(s) described as 7 DECLARATION OF MICHAEL MARRON IN SUPPORT OF DEFENDANTS' MOTION **FOR A STAY** on the interested parties in this action as follows: 8 SEE ATTACHED SERVICE LIST 9 10 BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the 11 document(s) to be sent from e-mail address clamar@bradley.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any 12 electronic message or other indication that the transmission unsuccessful. 13 I declare under penalty of perjury under the laws of the State of California that the foregoing 14 is true and correct. 15 Executed on April 27, 2023, at Birmingham, Alabama. 16 17 /s/ W. Chadwick Lamar, Jr. W. Chadwick Lamar, Jr. 18 19 20 21 22 23 24 25 26 27 28

1	SERVICE LIST		
2 3	The People of The State of California vs. Polymer80, Inc., David Borges, Loran Kelley Case No. 21STCV06257		
4	OFFICE OF THE LOS ANGELES CITY ATTORNEY	Attorneys for Plaintiff The People of the State of California	
5	Tiffany Tejeda-Rodriguez, Deputy City Attorney	1 0 0	
6	Christopher S. Munsey, Deputy City Attorney Michael J. Bostrom, Assistant City Attorney		
7	200 North Spring Street, 14th Floor Los Angeles, CA 90012		
8	Telephone: (213) 978-1867 tiffany.tejeda-rodriguez@lacity.org		
9	chris.munsey@lacity.org		
10	michael.bostrom@lacity.org		
11	QUINN EMANUEL URQUHART & SULLIVAN, LLP		
12	Robert M. Schwartz Deshani Ellis		
13	Andrew M. Brayton		
1.4	Emiliano Delgado		
14	Duane R. Lyons 865 South Figueroa Street, 10th Floor		
15	Los Angeles, California 90017		
16	Telephone: (213) 443-3000		
17	robertschwartz@quinnemanuel.com deshaniellis@quinnemanuel.com		
	andrewbrayton@quinnemanuel.com		
18	emilianodelgado@quinnemanuel.com		
19	duanelyons@quinnemanuel.com		
20	EVERYTOWN LAW Eric A. Tirschwell		
21	Len Hong Kamdang		
22	Andrew Nellis 450 Lexington Avenue		
23	P.O. Box 4148		
24	New York, NY 10017 Telephone: (646) 324-8222		
25	etirschwell@everytown.org		
26	lkamdang@everytown.org anellis@everytown.org		
27			
28			