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Francisco Gudino Cardenas and Troy McFadyen, et al.

19
20 IN THE SUPERIOR COURT OF CALIFORNIA

21 FOR THE COUNTY OF ORANGE

22 GHOST GUNNER FIREARMS CASES

23 Included actions:

24
25 30-2019-01111797-CU-PO-CJC *Cardenas v.*
26 *Ghost Gunner, Inc. dba GhostGunner.net, et al.*

27 CIV-DS-1935422 *McFadyen, et al. v. Ghost*
28 *Gunner, Inc., dba GhostGunner.net, et al.*

**PLAINTIFFS' CONSOLIDATED FIRST
AMENDED COMPLAINT FOR
DAMAGES**

JCCP No. 5167

Superior Court of California

County of Orange

Case No. 30-2019-01111797-CU-PO-CJC

Superior Court of California

County of San Bernardino

Case No. CIV-DS-1935422

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Dept.: CX 104
Judge: Hon. William D. Claster

1. NEGLIGENCE
2. NEGLIGENCE PER SE
3. NEGLIGENT ENTRUSTMENT
4. PUBLIC NUISANCE
5. VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200 (UNFAIR AND UNLAWFUL SALES PRACTICES)
6. VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200 (UNFAIR MARKETING TACTICS)

COMPLAINT AND DEMAND FOR JURY TRIAL

1. COME NOW PLAINTIFFS FRANCISCO GUDINO CARDENAS, in his Individual Capacity, TROY MCFADYEN, in his Individual Capacity, and as Heir at Law and Successor in Interest to MICHELLE MCFADYEN, Deceased (“TROY MCFADYEN”); PHILLIP BOW and SIA BOW, as Heirs at Law and Successors in Interest to MICHELLE MCFADYEN, Deceased (“PHILLIP BOW and SIA BOW”); BOB STEELE, a Dependent Adult, by and through his Guardian ad Litem, DAVID STEELE, Heir at Law and Successor in Interest to DIANA STEELE, Deceased (“BOB STEELE”); MICHAEL ELLIOTT, Heir at Law and Successor in Interest to DANIEL LEE ELLIOT II, Deceased, and DIANA STEELE, Deceased (“MICHAEL ELLIOT”); G.E., a Minor, by and through his Guardian ad Litem, ALMA FEITELBERG, Heir at Law and Successor in Interest to DANIEL LEE ELLIOT II, Deceased, and DIANA STEELE, Deceased (“G.E., a minor”); and M.E., a Minor, by and through her Guardian ad Litem, LATISHA CORNWALL, Heir at Law and Successor in Interest to DANIEL LEE ELLIOT II, Deceased, and DIANA STEELE, Deceased (“M.E., a minor”); MARCIA MCHUGH, Heir at Law and Successor in Interest to JOSEPH MCHUGH, Deceased (“MARCIA MCHUGH”); GRACE MCHUGH, Heir

1 at Law and Successor in Interest to JOSEPH MCHUGH, Deceased (“GRACE MCHUGH”); A.H.,
2 a Minor, by and through his Guardian ad Litem, MARIA MONROY (“A.H., a minor”); TIFFANY
3 PHOMMATHEP; JOHN PHOMMATHEP SR.; J.P. II, a Minor, by and through his Guardian ad
4 Litem, TIFFANY PHOMMATHEP (“J.P. II, a minor”); J.P., a Minor, by and through his Guardian
5 ad Litem, TIFFANY PHOMMATHEP (“J.P., a minor”); N.P, a Minor, by and through his Guardian
6 ad Litem, TIFFANY PHOMMATHEP (“N.P., minor”), JAMES WOODS, JR.; and JAMES
7 WOODS, SR., (“collectively “PLAINTIFFS”), by and through their attorneys of record, and allege
8 the following against DEFENDANTS GHOST GUNNER INC., d/b/a GHOSTGUNNER.NET;
9 BLACKHAWK MANUFACTURING GROUP INC., d/b/a 80PERCENTARMS.COM;
10 POLYMER80, INC.; GHOST AMERICA LLC, d/b/a GHOSTGUNS.COM; GHOST FIREARMS
11 LLC, d/b/a GRID DEFENSE and GHOSTRIFLES.COM; JUGGERNAUT TACTICAL INC.,
12 d/b/a JTACTICAL.COM; MFY TECHNICAL SOLUTIONS LLC, d/b/a 5DTACTICAL.COM;
13 TACTICAL GEAR HEADS LLC, d/b/a 80- LOWER.COM; AR-15LOWERRECEIVERS.COM;
14 and 80LOWERJIG.COM; JAMES TROMBLEE, JR., d/b/a USPATRIOTARMORY.COM;
15 INDUSTRY ARMAMENT INC., d/b/a AMERICANWEAPONSCOMPONENTS.COM;
16 THUNDER GUNS LLC, d/b/a THUNDERTACTICAL.COM; and DOES 1-5 (collectively
17 “DEFENDANTS”). Further, PLAINTIFFS demand a jury trial.

18 INTRODUCTION

19 2. PLAINTIFFS bring this suit because each was shot and/or injured and/or suffered
20 the loss of a relative who was shot, injured, and/or killed, as a direct, foreseeable, and proximate
21 result of DEFENDANTS’ negligent, reckless, and intentionally unlawful actions that resulted in a
22 mass shooting spree in Tehama County, California on November 13-14, 2017 (hereinafter, “the
23 TEHAMA COUNTY MASSACRE”).

24 3. Specifically, PLAINTIFFS were damaged as a direct, foreseeable, and proximate
25 result of the use of DEFENDANTS’ products during the TEHAMA COUNTY MASSACRE by a
26 dangerous, mentally disturbed California resident named KEVIN NEAL. NEAL was barred at the
27 time of the massacre from possessing *any* firearms at all pursuant to one or more California state
28 court orders as well as by state and/or federal laws. In fact, NEAL was known to law enforcement

1 at the time of the shooting for being a violent and mentally unstable offender who frequently used
2 firearms in an unsafe manner in and around his home in Tehama County.

3 4. On information and belief, NEAL nonetheless was able to obtain one or more
4 “GHOST GUN KITS” (as defined *infra*) from one or more of the DEFENDANTS and used those
5 kits to perform the final manufacturing steps necessary to make several AR-15 style “ghost” rifles
6 (hereinafter “AR-15 GHOST GUNS”) that he later used and/or possessed during his violent attacks
7 during the TEHAMA COUNTY MASSACRE.

8 5. DEFENDANTS harmed PLAINTIFFS by (a) intentionally undermining federal and
9 state firearms laws by making parts and/or tools sold as “kits” used in the manufacture of finished
10 AR-15 GHOST GUNS by end purchasers; (b) aiding and abetting the manufacture of finished AR-
11 15 GHOST GUNS by end purchasers of DEFENDANTS’ “kits” that might include unfinished parts
12 and/or tools made by one or more manufacturers of those kit components; and/or (c) intentionally
13 or negligently marketing, selling, and/or advertising their kits for making finished AR-15 GHOST
14 GUNS to dangerous persons who are not allowed to possess AR-15 style firearms pursuant to local,
15 state, and/or federal laws and regulations and/or persons who exhibit traits that would preclude a
16 Federal Firearms Licensee (“FFL”) from making a sale to that person.

17 6. DEFENDANTS’ “GHOST GUN KITS” as defined herein comprise multiple
18 components, including un-serialized “receivers”¹ (also known as a “frames,” “lowers,” and “80%
19 receivers”²), other firearms parts, and/or tools needed to manufacture an AR-15 GHOST GUN. At
20 all pertinent times herein, DEFENDANTS have made GHOST GUN KITS and/or aided and abetted
21 the manufacture of GHOST GUN KITS by the end purchaser of those kits. At all pertinent times
22 herein, DEFENDANTS have intentionally and/or negligently marketed, sold, and/or advertised
23 their GHOST GUN KITS to persons including criminals, the mentally unstable, and domestic
24 abusers like NEAL who have been prohibited by court order or state or federal law from possessing
25 firearms, and to children and any others who have been deemed insufficiently safe to possess a

26 ¹ Under Department of Justice rules, finished receivers are themselves considered “firearms” that
27 are subject to FFL rules. *See* 27 C.F.R. 447, 478-79 (2021).

28 ² The name “80% receiver” is misleading because there are no defined parameters for what an
80% receiver or “finished receiver” comprises. Generally, the name refers to a finished receiver
that has not yet been combined with other parts to form a fully functioning firearm.

1 firearm (hereinafter, “PROHIBITED PURCHASERS”) and to/in jurisdictions that prohibit the
2 possession and/or use of the AR-15 GHOST GUNS and/or GHOST GUN KITS used to make them
3 (hereinafter, ‘PROHIBITED JURISDICTIONS”), including the State of California.

4 7. A firearm receiver (also sometimes called a “frame”) is the part of a firearm which
5 integrates other components by providing housing for internal action components such as the
6 hammer, bolt or breechblock, firing pin and extractor, and has threaded interfaces for externally
7 attaching ("receiving") components such as the barrel, stock, trigger mechanism and iron/optical
8 sights. The receiver is usually made of forged, machined, or stamped steel, aluminum, and
9 polymers. In fully finished AR-15 style firearms, a serial number is required and is typically on the
10 receiver. The Department of Justice has adopted a rule to address the significant proliferation of
11 un-serialized ghost guns used to evade federally required background checks. The final rule adds
12 the term “privately made firearm” – commonly referred to as a “ghost gun” and defines it as “a
13 firearm, including a frame or receiver, assembled by a person other than a licensed manufacturer,
14 and not containing a serial number or other identifying marking placed by a licensed manufacturer
15 at the time the firearm was produced.” On information and belief, at all pertinent times,
16 DEFENDANTS’ GHOST GUN KITS have included un-serialized receivers and/or include
17 components from which an un-serialized receiver can be made.

18 8. The banned AR-15 GHOST GUNS made by purchasers of DEFENDANTS’ kits
19 are, in part, termed “ghost guns” because they are virtually untraceable due to the lack of
20 serialization, background checks, and involvement of FFLs. AR-15 style firearms feature a modular
21 construction to simplify substitution of parts and avoid the need for arsenal facilities for most
22 repairs of malfunctioning military-style rifles. Numerous manufacturers produce different modules,
23 assemblies, and parts that enable individuals with average mechanical aptitude to substitute such
24 components for original equipment or to manufacture a custom AR-15 style firearm to his/her
25 specifications. AR-15 style rifles have been referred to as "the Swiss Army knife of rifles,” “Barbie
26 Dolls for Guys,” and “LEGOs for adults” in part due to the vast assortment of component parts and
27 accessories available and interchangeable in constructing an AR-15 style firearm.

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1 9. On information and belief, multiple “manufacturing steps” are typically performed
2 by at least two or more entities in making an AR-15 GHOST GUN from DEFENDANTS’ GHOST
3 GUN KITS. These steps generally include at least a first step of forging or billeting a block of
4 metal or polymer into a particular shape, a next step that typically includes some assembly and
5 milling to hollow out various parts, and final finishing steps that can include additional milling by
6 even a fourth party. The manufacturing process for any given firearm can be further complicated
7 by the ready ability to swap out parts from other manufacturers at any point in the process. Thus,
8 for any given AR-15 style firearm, there are multiple parties who participate in the making of any
9 particular firearm, such that no single party can be identified as the “manufacturer.”

10 10. Not only can there be multiple individual producers of specific parts within
11 DEFENDANTS’ GHOST GUN KITS, but the ultimate end purchasers of those kits like NEAL are
12 themselves manufacturers of the firearms they ultimately produce from those kits and the
13 DEFENDANTS are, in this sense, part of a manufacturing chain used to make the end-product of
14 an AR-15 GHOST GUN like those made and used by NEAL.

15 11. For these same reasons and more, it can be practically impossible to identify a single
16 manufacturer when it comes to ghost guns, including specifically AR-15 GHOST GUNS, when it
17 comes to assigning responsibility for harms committed using them, including specifically the AR-
18 15 GHOST GUNS assembled from the GHOST GUN KITS at issue here. This is because the end
19 user (or someone assisting the end user) is by definition “making” a firearm by completing the final
20 finishing and, in some cases, milling steps required to take the parts and tools acquired in one or
21 more GHOST GUN KITS and use them to make a fully functional AR-15 GHOST GUN.

22 12. Likewise, it can be difficult, if not impossible, to identify each of the manufacturing
23 participants involved in making a particular AR-15 GHOST GUN from one or more GHOST GUN
24 KITS. This is also why law enforcement often cannot trace a particular AR-15 GHOST GUN back
25 through the manufacturing chain to one or more GHOST GUN KIT providers when such firearms
26 are recovered from a crime scene. DEFENDANTS each make and/or aid and abet the making of
27 AR-15 GHOST GUNS from GHOST GUN KITS, including those DEFENDANTS who may claim
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1 not to “manufacture” their kits since they aid and abet the manufacturing of AR-15 GHOST GUNS
2 by the purchaser of their GHOST GUN KITS.

3 13. DEFENDANTS primarily market, sell, and advertise their GHOST GUN KITS
4 through online sites that enable purchasers to readily make AR-15 GHOST GUNS without a
5 background check, and/or, without interaction with a Federal Firearms Licensee (“FFL,” a type of
6 authorized gun dealer), and in violation of state law restrictions governing assault weapons,
7 including such restrictions in the State of California that were in force at the time of the TEHAMA
8 COUNTY MASSACRE.

9 14. DEFENDANTS knew or reasonably should have known that they have been
10 supplying GHOST GUN KITS to PROHIBITED PURCHASERS including criminals, children,
11 felons, the mentally disturbed, and others whose mere possession of firearms poses an unacceptably
12 high threat of injury or death to others.

13 15. DEFENDANTS further knew or reasonably should have known that they have been
14 making, marketing, selling, and advertising GHOST GUN KITS into PROHIBITED
15 JURISDICTIONS like the State of California, which violates state and federal statutes applicable
16 to the registration, ownership, sale, and marking of firearms.

17 16. DEFENDANTS elected not to use reasonable safety measures that could have
18 limited the risk of their GHOST GUN KITS falling into the hands of PROHIBITED
19 PURCHASERS or being sold in PROHIBITED JURISDICTIONS.

20 17. Instead, on information and belief, DEFENDANTS targeted PROHIBITED
21 PURCHASERS by marketing and advertising their dangerous GHOST GUN KITS in such a
22 manner as to emphasize their lack of traceability, a feature they knew or should have known would
23 be particularly attractive to PROHIBITED PURCHASERS. For example, DEFENDANTS
24 advertise the utility of their GHOST GUN KITS with claims such as “they can’t take them if they
25 don’t know you have them,” and “No registration or serialization required.” In doing so,
26 DEFENDANTS intentionally emphasize that their GHOST GUN KITS can be used to make
27 untraceable weapons and enable the purchaser to evade background checks and interaction with an
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1 FFL, which DEFENDANTS knew or should have known would attract a base of unlawful and
2 PROHIBITED PURCHASERS.

3 18. DEFENDANTS also market and advertise their GHOST GUN KITS using
4 jingoistic and militarized images that emphasize the lethality of their GHOST GUN KITS and, on
5 information and belief, attract a base of customers comprising PROHIBITED PURCHASERS who
6 DEFENDANTS knew or should have known intend to make unlawful use of the AR-15 GHOST
7 GUNS they manufacture with DEFENDANTS' GHOST GUN KITS.

8 19. DEFENDANTS have continued to make, aid and abet the making of, and/or
9 intentionally and/or negligently market and advertise the features of their GHOST GUN KITS in a
10 manner they knew or should have known makes them attractive for use by PROHIBITED
11 PURCHASERS and in PROHIBITED JURISDICTIONS, creating a secondary market for those
12 who wish to possess and use lethal, military-style firearms undetected and untraceable by law
13 enforcement through serialization, background checks, and FFL interactions even after learning
14 (through extensive media coverage, law enforcement bulletins, and other means) that the AR-15
15 GHOST GUNS made from their GHOST GUN KITS are disproportionately used in crimes and with
16 increasing frequency. Ghost guns have become a scourge on Californian's safety and on the ability
17 of law enforcement to investigate and enforce state and federal laws in California.

18 20. DEFENDANTS could have changed their business practices to institute reasonable
19 safety measures to minimize the damage done by the problem they knowingly or negligently helped
20 to create. Instead, DEFENDANTS have continued to choose profits over people and public safety
21 and have doubled down on their dangerous and irresponsible practices. By doing so,
22 DEFENDANTS have acted and continue to act with a reckless disregard, conscious disregard,
23 and/or deliberate indifference to a known and obvious risk that threatens the life and safety of
24 others.

25 21. Leading up to and since the TEHAMA COUNTY MASSACRE, DEFENDANTS
26 have made – and/or through the sale of their GHOST GUN KITS, aided and abetted the making of
27 – un-serialized AR-15 GHOST GUNS in violation of state and federal laws, including in violation
28 of California's assault weapons ban.

1 making, and/or aiding and abetting the making of, AR-15 GHOST GUNS through the sale of its
2 GHOST GUN KITS in the County of Orange, State of California.

3 28. Venue of this consolidated case is proper in the Superior Court of the County of
4 Orange because DEFENDANT GHOST GUN AMERICA LLC. d/b/a GHOSTGUNS.COM is a
5 California resident and/or California Corporation who at all relevant times resided in and/or
6 maintains their principal place of business in the County of Orange, State of California.

7 29. Venue of this consolidated case is proper in the Superior Court of the County of
8 Orange because DEFENDANT GHOST FIREARMS LLC d/b/a GRID DEFENSE and
9 GHOSTRIFLES.COM at all relevant times engaged in the business of making, and/or aiding and
10 abetting the making of, AR-15 GHOST GUNS through the sale of its GHOST GUN KITS in the
11 County of Orange, State of California.

12 30. Venue of this consolidated case is proper in the Superior Court of the County of
13 Orange because DEFENDANT JUGGERNAUT TACTICAL INC. d/b/a JTACTICAL.COM is a
14 California resident and/or California Corporation who at all relevant times resided in and/or
15 maintains their principal place of business in the County of Orange, State of California.

16 31. Venue of this consolidated case is proper in the Superior Court of the County of
17 Orange because MFY TECHNICAL SOLUTIONS LLC. d/b/a 5DTACTICAL.COM at all relevant
18 times engaged in the business of making, and/or aiding and abetting the making of, AR-15 GHOST
19 GUNS through the sale of its GHOST GUN KITS in the County of Orange, State of California.

20 32. Venue of this consolidated case is proper in the Superior Court of the County of
21 Orange because TACTICAL GEAR HEARDS LLC. d/b/a 80-LOWER.COM; AR-
22 15LOWERRECEIVERS.COM; and 80LOWERJIG.COM at all relevant times engaged in the
23 business of making, and/or aiding and abetting the making of, AR-15 GHOST GUNS through the
24 sale of its GHOST GUN KITS in the County of Orange, State of California.

25 33. Venue of this consolidated case is proper in the Superior Court of the County of
26 Orange because JAMES TROMBLEE d/b/a USPATRIOTARMORY.COM at all relevant times
27 engaged in the business of making, and/or aiding and abetting the making of, AR-15 GHOST
28 GUNS through the sale of its GHOST GUN KITS in the County of Orange, State of California.

THE PARTIES

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2 40. PLAINTIFF FRANCISCO GUDINO CARDENAS is a natural person of majority
3 age who resided at the time of this incident in Tehama County, CA and presently resides in
4 San Diego County, CA.

5 41. At all times pertinent hereto, PLAINTIFF TROY MCFADYEN was a resident of
6 Cottonwood, County of Shasta, State of California. TROY MCFADYEN is the surviving spouse
7 of MICHELLE MCFADYEN, deceased. TROY MCFADYEN brings this action in his individual
8 capacity as a victim and as the heir of MICHELLE MCFADYEN, deceased.

9 42. At all times pertinent hereto, PLAINTIFF PHILLIP BOW was a resident of the
10 Santa Rosa, County of Sonoma, State of California. PHILLIP BOW is the surviving adult son of
11 MICHELLE MCFADYEN, deceased.

12 43. At all times pertinent hereto, PLAINTIFF SIA BOW was a resident of Redding,
13 County of Shasta, State of California. SIA BOW is the surviving adult daughter of MICHELLE
14 MCFADYEN, deceased.

15 44. At all times pertinent hereto, TROY MCFADYEN, PHILLIP BOW and SIA BOW,
16 were the surviving heirs of decedent MICHELLE MCFADYEN, based on California intestacy
17 laws.

18 45. At all times pertinent hereto, PLAINTIFF BOB STEELE was a resident of Corning,
19 County of Tehama, State of California. BOB STEELE currently resides in Red Bluff, County of
20 Tehama, State of California. At all times pertinent hereto, BOB STEELE was incapacitated and a
21 dependent adult due to numerous physical and mental ailments. BOB STEELE is being represented
22 by his Guardian ad Litem, DAVID STEELE. BOB STEELE was, at all relevant times, a protected
23 person pursuant to one or more court orders in effect against NEAL.

24 46. At all times pertinent hereto, PLAINTIFF MICHAEL ELLIOT was a resident of the
25 Mayville, County of Trail, State of North Dakota.

26 47. At all times pertinent hereto, PLAINTIFF G.E., an 8-year-old, was a resident of
27 Corning, County of Tehama, State of California. G.E. is currently a resident of Ware, County of
28 Hampshire, State of Massachusetts, and is being represented by his Guardian ad Litem, ALMA

1 FEITELBERG. G.E. was, all relevant times, a protected person pursuant to one or more court orders
2 in effect against NEAL.

3 48. At all times pertinent hereto, PLAINTIFF M.E., a 10-year-old, was a resident of Rio
4 Linda, County of Sacramento, State of California. M.E. is being represented by her Guardian ad
5 Litem, LATISHA CORNWALL. M.E. remains a resident of the County of Sacramento.

6 49. At all times pertinent hereto, BOB STEELE was the surviving husband of decedent,
7 DIANA STEELE, and is an heir to decedent DIANA STEELE. DIANA STEELE was also, at all
8 relevant times, a protected person pursuant to one or more court orders in effect against NEAL.

9 50. At all times pertinent hereto, MICHAEL ELLIOTT, G.E. and M.E., were the
10 surviving children and heirs of decedent DANIEL ELLIOTT II, and the additional heirs of their
11 grandmother, DIANA STEELE, based on California intestacy laws.

12 51. At all times pertinent hereto, PLAINTIFF MARCIA MCHUGH was a resident of
13 the City of Conning, County of Tehama, State of California, and is the surviving mother, who was
14 dependent on JOSEPH MCHUGH.

15 52. At all times pertinent hereto, PLAINTIFF GRACE MCHUGH was a resident of the
16 Ceres, County of Stanislaus, State of California, and is the surviving adult daughter of JOSEPH
17 MCHUGH.

18 53. At all times pertinent hereto, MARCIA MCHUGH and GRACE MCHUGH, were
19 the surviving heirs of decedent JOSEPH MCHUGH, based on California intestacy laws.

20 54. At all times pertinent hereto, PLAINTIFF A.H., a minor, was a resident of the
21 Corning, County of Tehama, State of California. A.H. is being represented by his Guardian ad
22 Litem, MARIA MONROY.

23 55. At all times pertinent hereto, PLAINTIFF TIFFANY PHOMMATHEP is and was
24 a resident of Corning in the County of Tehama, State of California.

25 56. At all times pertinent hereto, PLAINTIFF JOHN PHOMMATHEP is and was a
26 resident of Corning in the County of Tehama, State of California.

1 57. At all times pertinent hereto, PLAINTIFF J.P. II, a minor is and was a resident of
2 Corning in the County of Tehama, State of California. J.P. II, a minor, is being represented by his
3 Guardian ad Litem, TIFFANY PHOMMATHEP.

4 58. At all times pertinent hereto, PLAINTIFF J.P., a minor is and was a resident of
5 Corning in the County of Tehama, State of California. J.P. is being represented by his Guardian ad
6 Litem, TIFFANY PHOMMATHEP.

7 59. At all times pertinent hereto, PLAINTIFFS N.P., a minor is and was a resident of
8 Corning in the County of Tehama, State of California. N.P. is being represented by his Guardian
9 ad Litem, TIFFANY PHOMMATHEP.

10 60. At all times pertinent hereto, PLAINTIFF JAMES WOODS JR., is and was a
11 resident of Coning in the County of Tehama, State of California.

12 61. At all times pertinent hereto, PLAINTIFF JAMES WOODS SR., is and was a
13 resident of Corning in the County of Tehama, State of California.

14 62. At all times pertinent hereto, DEFENDANT GHOST GUNNER INC. (“GHOST
15 GUNNER”), d/b/a GHOSTGUNNER.NET, has been a Texas corporation with its principal place
16 of business in Austin, County of Travis, State of Texas. At all times pertinent hereto, GHOST
17 GUNNER has been engaged in the business of making, and/or aiding and abetting the making of,
18 AR-15 GHOST GUNS through the sale of its GHOST GUN KITS in violation of state and federal
19 laws, including by providing its GHOST GUN KITS to PROHIBITED PURCHASERS and persons
20 in PROHIBITED JURISDICTIONS. At all times pertinent hereto, GHOST GUNNER has
21 intentionally and/or negligently marketed their GHOST GUN KITS to PROHIBITED
22 PURCHASERS, including to persons prohibited from having firearms by court order, and into
23 PROHIBITED JURISDICTIONS. including in the State of California. GHOST GUNNER’s
24 registered agent is a Texas company named DEFENSE DISTRIBUTED. DEFENSE
25 DISTRIBUTED and GHOST GUNNER (“DEFENSE DISTRIBUTED/GHOST GUNNER”)
26 should be viewed as interchangeable and inextricably linked for purposes of this Complaint for
27 Damages; upon information and belief, the same individual, Cody Wilson, is involved with running
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1 both entities. DEFENSE DISTRIBUTED's website still links to GHOST GUNNER. See
2 <https://defdist.org>.

3 63. At all times pertinent hereto, DEFENDANT BLACKHAWK MANUFACTURING
4 GROUP INC. ("BLACKHAWK"), d/b/a 80PERCENTARMS.COM, has been a California
5 domestic corporation, with its principal place of business in the Garden Grove, County of Orange,
6 State of California. At all times pertinent hereto, BLACKHAWK has been engaged in the business
7 of making, and/or aiding and abetting the making of, AR-15 GHOST GUNS through the sale of its
8 GHOST GUN KITS in violation of state and federal laws, including by providing its GHOST GUN
9 KITS to PROHIBITED PURCHASERS and persons in PROHIBITED JURISDICTIONS. At all
10 times pertinent hereto, BLACKHAWK has intentionally and/or negligently marketed their GHOST
11 GUN KITS to PROHIBITED PURCHASERS, including to persons prohibited from having
12 firearms by court order, and into PROHIBITED JURISDICTIONS. including in the State of
13 California .

14 64. At all times pertinent hereto, DEFENDANT POLYMER80, INC.
15 ("POLYMER80") has been a Nevada corporation with a principal place of business in Dayton,
16 Nevada. At all times pertinent hereto, POLYMER80 has been engaged in the business of making,
17 and/or aiding and abetting the making of, AR-15 GHOST GUNS through the sale of its GHOST
18 GUN KITS in violation of state and federal laws, including by providing its GHOST GUN KITS
19 to PROHIBITED PURCHASERS and persons in PROHIBITED JURISDICTIONS. At all times
20 pertinent hereto, POLYMER80 has intentionally and/or negligently marketed their GHOST GUN
21 KITS to PROHIBITED PURCHASERS, including to persons prohibited from having firearms by
22 court order, and into PROHIBITED JURISDICTIONS. including in the State of California.

23 65. At all times pertinent hereto, DEFENDANT GHOST AMERICA LLC ("GHOST
24 AMERICA"), d/b/a GHOSTGUNS.COM, has been a California limited liability company with its
25 principal place of business in Yorba Linda, County of Orange, State of California. At all times
26 pertinent hereto, GHOST AMERICA has been engaged in the business of making, and/or aiding
27 and abetting the making of, AR-15 GHOST GUNS through the sale of its GHOST GUN KITS in
28 violation of state and federal laws, including by providing its GHOST GUN KITS to PROHIBITED

1 PURCHASERS and persons in PROHIBITED JURISDICTIONS. At all times pertinent hereto,
2 GHOST AMERICA has intentionally and/or negligently marketed their GHOST GUN KITS to
3 PROHIBITED PURCHASERS, including to persons prohibited from having firearms by court
4 order, and into PROHIBITED JURISDICTIONS. including in the State of California.

5 66. At all times pertinent hereto, GHOST FIREARMS LLC (“GHOST FIREARMS”),
6 d/b/a GRID DEFENSE and GHOSTRIFLES.COM, has been a limited liability company registered
7 in Florida with its principal place of business in Daytona Beach, County of Volusia, State of Florida.
8 At all times pertinent hereto, GHOST AMERICA has been engaged in the business of making,
9 and/or aiding and abetting the making of, AR-15 GHOST GUNS through the sale of its GHOST
10 GUN KITS in violation of state and federal laws, including by providing its GHOST GUN KITS
11 to PROHIBITED PURCHASERS and persons in PROHIBITED JURISDICTIONS. At all times
12 pertinent hereto, GHOST AMERICA has intentionally and/or negligently marketed their GHOST
13 GUN KITS to PROHIBITED PURCHASERS, including to persons prohibited from having
14 firearms by court order, and into PROHIBITED JURISDICTIONS. including in the State of
15 California.

16 67. At all times pertinent hereto, DEFENDANT JUGGERNAUT TACTICAL INC.
17 (“JUGGERNAUT”), d/b/a JTACTICAL.COM, has been a California corporation with its principal
18 place of business in Orange, County of Orange, State of California. At all times pertinent hereto,
19 JUGGERNAUT has been engaged in the business of making, and/or aiding and abetting the making
20 of, AR-15 GHOST GUNS through the sale of its GHOST GUN KITS in violation of state and
21 federal laws, including by providing its GHOST GUN KITS to PROHIBITED PURCHASERS and
22 persons in PROHIBITED JURISDICTIONS. At all times pertinent hereto, JUGGERNAUT has
23 intentionally and/or negligently marketed their GHOST GUN KITS to PROHIBITED
24 PURCHASERS, including to persons prohibited from having firearms by court order, and into
25 PROHIBITED JURISDICTIONS. including in the State of California.

26 68. At all times pertinent hereto, DEFENDANT MFY TECHNICAL SOLUTIONS
27 LLC (“MFY TECHNICAL”), d/b/a 5DTACTICAL.COM, has been a Massachusetts limited
28 liability company with its principal place of business in Westborough, County of Worcester, State

1 of Massachusetts. At all times pertinent hereto, MFY TECHNICAL has been engaged in the
2 business of making, and/or aiding and abetting the making of, AR-15 GHOST GUNS through the
3 sale of its GHOST GUN KITS in violation of state and federal laws, including by providing its
4 GHOST GUN KITS to PROHIBITED PURCHASERS and persons in PROHIBITED
5 JURISDICTIONS. At all times pertinent hereto, MFY TECHNICAL has intentionally and/or
6 negligently marketed their GHOST GUN KITS to PROHIBITED PURCHASERS, including to
7 persons prohibited from having firearms by court order, and into PROHIBITED JURISDICTIONS.
8 including in the State of California.

9 69. At all times pertinent hereto, DEFENDANT TACTICAL GEAR HEADS LLC
10 (“TACTICAL GEAR HEADS”), d/b/a 80-LOWER.COM; AR-15LOWERRECEIVERS.COM;
11 and 80LOWERJIG.COM, has been an Indiana limited liability company with its principle of
12 business in Indianapolis, County of Marion, State of Indiana and/or in Fishers, County of Hamilton,
13 State of Indiana. At all times pertinent hereto, TACTICAL GEAR HEADS has been engaged in
14 the business of making, and/or aiding and abetting the making of, AR-15 GHOST GUNS through
15 the sale of its GHOST GUN KITS in violation of state and federal laws, including by providing its
16 GHOST GUN KITS to PROHIBITED PURCHASERS and persons in PROHIBITED
17 JURISDICTIONS. At all times pertinent hereto, TACTICAL GEAR HEADS has intentionally
18 and/or negligently marketed their GHOST GUN KITS to PROHIBITED PURCHASERS,
19 including to persons prohibited from having firearms by court order, and into PROHIBITED
20 JURISDICTIONS. including in the State of California.

21 70. At all times pertinent hereto, DEFENDANT JAMES TROMBLEE, JR., has
22 maintained a mailing address in Apple Valley, County of San Bernardino, State of California. Upon
23 information and belief, TROMBLEE began doing business as USPATRIOTARMORY.COM on
24 April 25, 2014. USPATRIOTARMORY.COM has maintained a business and mailing address in
25 Apple Valley, County of San Bernardino, State of California. At all times pertinent hereto,
26 TROMBLEE has been engaged in the business of making, and/or aiding and abetting the making
27 of, AR-15 GHOST GUNS through the sale of its GHOST GUN KITS in violation of state and
28 federal laws, including by providing its GHOST GUN KITS to PROHIBITED PURCHASERS and

1 persons in PROHIBITED JURISDICTIONS. At all times pertinent hereto, TROMBLEE has
2 intentionally and/or negligently marketed their GHOST GUN KITS to PROHIBITED
3 PURCHASERS, including to persons prohibited from having firearms by court order, and into
4 PROHIBITED JURISDICTIONS. including in the State of California.

5 71. At all times pertinent hereto, DEFENDANT INDUSTRY ARMAMENT INC.
6 (“INDUSTRY ARMAMENT”), d/b/a AMERICANWEAPONSCOMPONENTS.COM, has been
7 a Delaware corporation with a principal place of business in Mesa, County of Maricopa, State of
8 Arizona. At all times pertinent hereto, INDUSTRY ARMAMENT has been engaged in the
9 business of making, and/or aiding and abetting the making of, AR-15 GHOST GUNS through the
10 sale of its GHOST GUN KITS in violation of state and federal laws, including by providing its
11 GHOST GUN KITS to PROHIBITED PURCHASERS and persons in PROHIBITED
12 JURISDICTIONS. At all times pertinent hereto, INDUSTRY ARMANENT has intentionally
13 and/or negligently marketed their GHOST GUN KITS to PROHIBITED PURCHASERS,
14 including to persons prohibited from having firearms by court order, and into PROHIBITED
15 JURISDICTIONS. including in the State of California.

16 72. At all times pertinent hereto, DEFENDANT THUNDER GUNS LLC (“THUNDER
17 GUNS”), d/b/a THUNDERTACTICAL.COM, has been a limited liability company registered in
18 Florida with its principal place of business in Daytona Beach, County of Volusia, State of Florida.
19 At all times pertinent hereto, THUNDER GUNS has been engaged in the business of making,
20 and/or aiding and abetting the making of, AR-15 GHOST GUNS through the sale of its GHOST
21 GUN KITS in violation of state and federal laws, including by providing its GHOST GUN KITS
22 to PROHIBITED PURCHASERS and persons in PROHIBITED JURISDICTIONS. At all times
23 pertinent hereto, THUNDER GUNS has intentionally and/or negligently marketed their GHOST
24 GUN KITS to PROHIBITED PURCHASERS, including to persons prohibited from having
25 firearms by court order, and into PROHIBITED JURISDICTIONS. including in the State of
26 California.

27 73. DEFENDANTS DOE ONE through DOE ONE HUNDRED (“DOE
28 DEFENDANTS”) are sued herein under fictitious names. PLAINTIFFS assert that DOE

1 DEFENDANTS are engaged in the business of making, and/or aiding and abetting the making of,
2 AR-15 GHOST GUNS through the sale of its GHOST GUN KITS in violation of state and federal
3 laws, including by providing its GHOST GUN KITS to PROHIBITED PURCHASERS and persons
4 in PROHIBITED JURISDICTIONS. At all times pertinent hereto, PLAINTIFFS assert that DOE
5 DEFENDANTS have intentionally and/or negligently marketed their GHOST GUN KITS to
6 PROHIBITED PURCHASERS, including to persons prohibited from having firearms by court
7 order, and into PROHIBITED JURISDICTIONS. including in the State of California.
8 PLAINTIFFS do not at this time know the true names or capacities of said DOE DEFENDANTS
9 but pray that the same may be alleged herein should that information be ascertained.

10 74. The true names or capacities, whether individual, corporate, associate or otherwise,
11 of DEFENDANT DOES ONE through ONE HUNDRED, inclusive, are unknown to PLAINTIFFS,
12 who, therefore sue said DEFENDANTS by such fictitious names. PLAINTIFFS are informed and
13 believe and thereon allege that each of the DEFENDANTS designated herein as a DOE is
14 negligently, intentionally, or in some other manner, responsible for the events and happenings
15 herein referred to and negligently, intentionally, or in some other manner, caused injury and
16 damages proximately thereby to the PLAINIFFS as herein alleged.

17 75. On information and belief, DEFENDANTS actively engaged in the business of
18 making and/or aiding and abetting the making of these products to California residents leading up
19 to and during November of 2017, while emphasizing features of their products that made them
20 particularly attractive to PROHIBITED PURCHASERS in PROHIBITED JURISDICTION like
21 NEAL.

22 76. All herein complained actions of DEFENDANTS, and each of them, were done in
23 a conscious disregard and deliberate disregard for the rights and safety of others, and in a willful
24 and reckless manner making the infliction of grievous bodily injury and/or death highly probable.
25 DEFENDANTS' conduct was despicable, willful, wanton, and malicious within the meaning of
26 California Civil Code §§ 3294, so as to warrant the imposition of punitive and exemplary damages
27 against them in the fullest extent allowed by law. DEFENDANTS and each of them acted in a
28 conscious disregard for the rights and safety of others, in a manner that shocks the conscience, and

1 in a despicable manner sufficient to warrant the imposition of punitive damages against each and
2 every DEFENDANT sued herein.

3 **CASE SPECIFIC ALLEGATIONS**

4 77. PLAINTIFFS hereby incorporate by reference all preceding paragraphs as though
5 set out in full herein.

6 A. **The GHOST GUN KIT Industry Negligently and Knowingly Arms Criminals**
7 **and Other PROHIBITED PURCHASERS Like NEAL and Intentionally**
8 **Circumvents California and Federal Firearms Laws**

9 78. Every year in America, firearms are used to commit over 500,000 crimes, and over
10 100,000 people are shot – close to 40,000 fatally.

11 79. Federal and state laws recognize the grave risk posed by dangerous firearms in the
12 wrong hands, and as a result, regulate and restrict their sale and possession in targeted ways
13 designed to protect public safety.

14 80. Only FFLs can engage in the business of selling firearms. Felons, domestic abusers,
15 the dangerously mentally ill, and certain other categories of people including PROHIBITED
16 PURCHASERS are deemed to pose too great a danger to themselves or to be permitted to buy or
17 possess firearms as a matter of federal and/or state law. FFLs are required to conduct background
18 checks on gun buyers to prevent sales to such PROHIBITED PURCHASERS. Firearms sold by
19 FFLs must include stamped serial numbers to enable accurate record keeping and aid law
20 enforcement in tracing a particular firearm to its initial retail seller if it is later misused in a crime.
21 Such tracing can help identify the chain of possession and the ultimate user of such firearm in a
22 crime.

23 81. DEFENDANTS sought – and continue to seek -- to undermine and circumvent these
24 federal and state public safety laws.

25 82. At all times pertinent hereto, DEFENDANTS knew, and continue to know, that law-
26 abiding persons who desire to use firearms, including AR-15 style rifles/firearms can and do obtain
27 such firearms through FFLs.
28

1 83. DEFENDANTS chose, at all times pertinent hereto, to manufacture and/or aid and
2 abet the manufacture of un-serialized GHOST GUN KITS used to make the same kind of AR-15
3 GHOST GUNS used in the TEHAMA COUNTY MASSACRE.

4 84. On information and belief, the majority of DEFENDANTS' sales or online, and
5 DEFENDANTS, at all times pertinent hereto, intentionally and/or negligently marketed,
6 advertised, targeted, sold, and/or aided and abetted in the sale of their GHOST GUN KITS to
7 PROHIBITED PURCHASERS such as NEAL and in/to PROHIBITED JURISDICITONS,
8 including in California.

9 85. On information and belief, DEFENDANTS, at all times pertinent hereto,
10 manufactured, marketed, advertised, and/or sold GHOST GUN KITS that include components that
11 require additional finishing and/or milling by the purchaser to make one or more GHOST GUN
12 KITS into a fully functioning AR-15 GHOST GUN.

13 86. On information and belief, prior to November 13, 2017, each DEFENDANT made
14 or sold GHOST GUN KITS and/or aided and abetted the making of finished AR-15 GHOST GUNS
15 by an end user.

16 87. DEFENDANTS' GHOST GUN KITS can be used to manufacture a fully functional
17 AR-15 GHOST GUN in as little as a few minutes without the maker possessing any specialized
18 skill or abilities.

19 88. DEFENDANTS thus knew or should have known that they were enabling almost
20 anyone, including PROHIBITED PURCHASERS and people in PROHIBITED JURISDICTIONS,
21 to build the type of AR-15 GHOST GUNS used in the TEHAMA COUNTY MASSACRE.

22 89. The AR-15 GHOST GUNS that are made using DEFENDANTS' GHOST GUN
23 KITS are functionally fungible because their component parts are interchangeable and can be mixed
24 with parts and/or tools from different GHOST GUN KITS to manufacture fully functional AR-15
25 GHOST GUNS. The AR-15 GHOST GUNS that are made using DEFENDANTS' GHOST GUN
26 KITS are also fungible because they operate in an interchangeable manner with other AR-15 style
27 firearms.

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1 90. Once made, the AR-15 GHOST GUNS that are made using DEFENDANTS'
2 GHOST GUN KITS are just as deadly and dangerous as AR-15 firearms are when in the hands of
3 PROHIBITED PURCHASERS and in PROHIBITED JURISDICTIONS. Not only do
4 DEFENDANTS' un-serialized AR-15 GHOST GUNS resemble the array of serialized AR-15
5 firearms available on the market, but they are equally lethal and therefore too dangerous to be
6 possessed or used by PROHIBITE PURCHASERS and in PROHIBITED JURISDICTIONS, as
7 state and federal legislatures have determined.

8 91. At all relevant times, on information and belief, DEFENDANTS chose not to stamp
9 serial numbers on the receivers contained in their GHOST GUN KITS and failed to require
10 customers to stamp the finished AR-15 GHOST GUNS with a serial number. This makes the AR-
11 15 GHOST GUNS manufactured from DEFENDANTS' products difficult or impossible to trace
12 back through its particular manufacturing and sales chain. It also makes it difficult or impossible
13 to trace the identity of the ultimate user of the completed AR-15 GHOST GUNS made with
14 DEFENDANTS' kits or parts. This makes the AR-15 GHOST GUNS made using
15 DEFENDANTS' GHOST GUN KITS attractive to PROHIBITED PURCHASERS, including to
16 persons in PROHIBITED JURISDICTIONS, because they can circumvent state and federal
17 government tracking systems.

18 92. Because DEFENDANTS' GHOST GUN KITS were – and continue to be – readily
19 available online for purchase with no background check, they are very attractive to PROHIBITED
20 PURCHASERS include criminals, domestic abusers, and other dangerous individuals who would
21 otherwise be prevented from purchasing a gun due to the inability to pass a background check.

22 93. Similarly, because DEFENDANTS' GHOST GUN KITS were – and continue to be
23 – capable of purchase without the buyer having any interaction with an FFL, they are also attractive
24 and accessible to individuals with psychological or behavioral issues who fear they may not be able
25 to pass muster at a responsible FFL.

26 94. Likewise, DEFENDANTS' GHOST GUN KITS were – and continue to be –
27 capable of purchase without the buyer having any interaction with an FFL, they are also attractive
28

1 and accessible to underaged persons who would be turned away by an FFL and fail a background
2 check.

3 95. The media has reported extensively on the dangerous effects of GHOST GUN KITS,
4 and, on information and belief, DEFENDANTS were and still are aware that the manner in which
5 they advertise, sell, and market their GHOST GUN KITS creates a secondary market for
6 PROHIBITED PURCHASERS and people who live in PROHIBITED JURISDICITONS. For
7 example, as a special agent in charge of the Bureau of Alcohol, Tobacco, Firearms and Explosives'
8 ("ATF") Los Angeles field division told reporters, "Criminals are making their own weapons
9 because they cannot buy them legally ... or they are paying other people to make those guns for
10 them to get around the gun laws." See [https://www.latimes.com/local/lanow/la-me-la-gangsters-](https://www.latimes.com/local/lanow/la-me-la-gangsters-homemade-guns-20180706-story.html)
11 [homemade-guns-20180706-story.html](https://www.latimes.com/local/lanow/la-me-la-gangsters-homemade-guns-20180706-story.html).

12 96. Although DEFENDANTS knew or should have known of all of the above-
13 mentioned facts, on information and belief, DEFENDANTS knowingly targeted and continue to
14 precisely target the criminals and other dangerous parties described above. For example, in their
15 marketing and advertising, on information and belief, DEFENDANTS purposefully emphasize as
16 a selling point the untraceable nature of their GHOST GUN KITS and the AR-15 GHOST GUNS
17 made from them due the absence of a serial number. In their marketing and advertising,
18 DEFENDANTS also purposefully emphasize the fact that their GHOST GUN KITS can be
19 purchased without a background check or interaction with an FFL as major selling points.

20 97. Examples of DEFENDANTS' intentional marketing to PROHIBITED
21 PURCHASERS include:

- 22 a. Emphasizing that their GHOST GUN KITS allow the production of un-
23 serialized weapons. See <https://ghostgunner.net/>.

24 No registration or serialization required

25 Due to Federal regulatory overreach, Ghost Gunner is now the only
26 affordable CNC solution for privately finishing your 80% lower
27 receivers. The first of its kind.

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- b. Highlighting that: “An AR-15 built using an 80% lower [receiver] will have no serialization or paperwork attached to it by default. Therefore, it is typically impossible to determine the firearm’s origin or history.” See <https://www.80-lower.com/faqs/>. The same site further emphasizes that a purchaser need not interact with an FFL to acquire its parts/kits and make a “ghost gun” AR-15 style rifle. See <https://www.80-lower.com/products/ar-15-build-kit-5-56mm-nato-16-melonite-barrel-classic-a2-handguard-w-80-lower-1-7-twist/>.



- c. Again, highlighting the lack of an FFL for purchase. See <https://americanweaponscomponents.com/product/80-ar-15-forged-anodized-lower-receiver>.
- d. And once again emphasizing “[t]hese products are not FFL items.” See <https://thundertactical.com/product/80-ar-lower-receiver-5-pack/>.

98. The above examples are illustrative rather than exhaustive. Upon information and belief, during all pertinent times herein, each DEFENDANT advertised and marketed its GHOST GUN KITS to emphasize that they can subvert state and federal background checks, waiting periods, and other laws and requirements.

99. According to the ATF, thirty percent of all guns recovered at California crime scenes are now untraceable “ghost guns,” including AR-15 GHOST GUNS that can be made using DEFENDANTS’ GHOST GUN KITS.

B. AR-15 Style Ghost Guns are Frequently Used in Mass Shootings in California

100. Multiple state and federal legislatures have acted to prohibit or limit the ability to possess AR-15 style firearms based on evidence that they are too lethal to be safely used by non-law enforcement or military personnel.

101. For example, AR-15 style firearms have become a favored choice for spree killers and mass shooter:

- a. In June 2013, John Zawahri went on a shooting spree with a ghost gun and killed five people in Santa Monica, California. Zawahri, who had a documented history of mental illness, was a PROHIBITED PURCHASER and he used an AR-15 GHOST GUN.

- b. In December 2015, Syed Rizwyan Farook and Tashfeen Malik used two AR-15-style Remington rifles and two 9mm handguns to kill 14 and injure 21 at in San Bernardino, Calif. before they were killed.
- c. In July 2015, in Stockton, California, gunmen used an AK-47-style ghost gun in an attempted bank robbery and held three people hostage.
- d. In June 2019, 26-year-old Sacramento Police Officer Tara O’Sullivan was shot and killed with an AR-15 GHOST GUN while responding to a domestic disturbance call.
- e. In August 2019, a convicted felon used an AR-15 GHOST GUN to kill California Highway Patrol officer Andre Moye and wound two of his colleagues, during a freeway shootout in Riverside, California.
- f. In March 2022, David Mora, a 39-year-old man shot and killed his three daughters, a family friend and himself with an AR-15-style rifle inside The Church in Sacramento.

102. Particularly given the lethal nature of their products, DEFENDANTS were aware or reasonably should have been aware of these and other incidents involving the unlawful use of AR-15 style rifles.

103. At all relevant times hereto, AR-15 style firearms, including those AR-15 GHOST GUNS made with DEFENDANTS’ GHOST GUN KITS are, and were, prohibited assault weapons under California law. *See* Cal. Pen. Code § 30510(a)(5) (assault weapons include semiautomatic rifles within the “Colt AR-15 series”); § 30510(f) (“As used in this section, ‘series’ includes all other models that are only variations, with minor differences, of those models listed in subdivision (a), regardless of the manufacturer.”); and § 30605(a) (criminalizing possession of an assault weapon).

104. California was one of the first states to ban AR-15 style firearms after a gunman with an assault weapon shot 34 children at Cleveland Elementary School in Stockton, California on January 17, 1989. The resulting Roberti-Roos Assault Weapons Control Act of 1989 made it illegal to sell an assault weapon in the state of California without a Dangerous Weapons Permit.³

105. Since that ban, DEFENDANTS have continued to make and/or aid and abet the making of banned assault rifles in California, including the AR-15 GHOST GUNS made from DEFENDANTS’ GHOST GUN KITS.

³ *See* The Roberti-Roos Assault Weapons Control Act of 1989 (AWCA).

1 106. In June 2016, the California legislature expanded its assault weapons ban again to
2 include semi-automatic center-fire rifles and shotguns with military-style features,⁴ including a
3 device that allowed users to manipulate the detachable magazine so it could more be more quickly
4 reloaded, thereby simulating the mechanism of an assault rifle.

5 107. As the Senate Public Safety Committee remarked in 2016 prior to the bill’s passage:
6 “Such weapons have been used in a number of recent gun attacks including the recent terrorist
7 attack in San Bernardino that left 14 Californians dead and 21 injured. Too many Californians have
8 died at the hands of these dangerous weapons.”⁵ The bill’s author further stated, “Military assault
9 weapons have no place on our streets and gun violence must not be tolerated. This bill closes a
10 loophole in law that allows military-style assault rifles to be sold legally in California. We raise our
11 children in communities, not war zones.” In doing so, the California legislature has determined that
12 assault rifles, including the AR-15 GHOST GUNS made from DEFENDANTS’ GHOST GUN
13 KITS, are inherently defective because they are too dangerous to be safely used by the general
14 public.

15 108. In addition to a ban on assault weapons in California, federal law requires all FFLs—
16 even those outside of a purchaser’s state—to comply with the laws of a purchaser’s state when selling
17 long guns like the AR-15 GHOST GUNS made from DEFENDANTS’ GHOST GUN KITS. *See*
18 18 U.S.C. § 922(b)(3).

19 109. California’s ban on assault rifles including the AR-15 GHOST GUNS made from
20 DEFENDANTS’ GHOST GUN KITS is a reasonable and responsible reaction to the grave threat
21 that AR-15 style weapons pose to the health and safety of Californians. These types of weapons
22 are favored by mass shooters. As illustrative examples, in addition to this case, the shooters in the
23 Aurora, Colorado movie theater shooting in July 2012, the Newtown, Connecticut elementary
24 school shooting in December 2012, and the aforementioned Santa Monica, California shooting in
25 June 2013, all involved AR-15 style rifles.

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28 ⁴ *See* Senate Bill 880 and Assembly Bill 1135.

⁵ *See* [SB-880 Firearms: assault weapons bill analysis](#) (May 2016).

1 110. Upon information and belief, at all pertinent times, DEFENDANTS have been
2 aware that AR-15 style rifles are frequently used by mass shooters and that certain jurisdictions,
3 including PROHIBITED JURISDICTIONS, have banned the AR-15 GHOST GUNS made from
4 DEFENDANTS' GHOST GUN KITS as a reasonable response to the outsize danger that these
5 particular type of firearms engender.

6 111. The AR-15 GHOST GUNS made from DEFENDANTS' GHOST GUN KITS
7 enable dangerous people in California like NEAL to obtain untraceable, un-serialized banned
8 assault rifles without so much as a background check, making it easy for mentally disturbed persons
9 to go online and obtain a GHOST GUN KIT to commit spree shootings. DEFENDANTS also knew
10 or should have known this prior to the TEHAMA COUNTY MASSACRE.

11 112. A growing number of states are moving to prohibit the advertisement and sale of
12 ghost guns and ghost gun kits, including ones like the AR-15 GHOST GUNS made from
13 DEFENDANTS' GHOST GUN KITS. Some of these states have issued a ban on "ghost guns"
14 altogether, including Illinois, Maryland, and Rhode Island. Officials in California, New Jersey,⁶
15 Maryland,⁷ and Washington D.C.⁸ have also filed legal action against Ghost Gun Kit manufacturers
16 and sellers, including against DEFENDANTS POLYMER80 and USPATRIOTARMORY.COM,
17 to hold them liable for violating or otherwise undermining state laws against the sale of banned
18 assault rifles and GHOST GUN KITS for making banned assault rifles, specifically because of their
19 methods of advertising.

20 113. In September 2019, New York Attorney General Letitia James announced that she
21 had ordered 16 websites to immediately stop selling products enabling the assembly of "ghost guns"
22 in New York. Attorney General James acknowledged the reality that "ghost guns" had been
23 providing the means to violate the state's assault weapons ban, stating: "There is only one purpose
24 for the products that these companies are selling — to manufacture illegal and deadly assault
25 weapons." James went on to note that "[t]he proliferation of these types of weapons has not only
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27 ⁶ *Grewal v. Tromblee, Jr.*, ESX-C-63-19 (N.J. Super. Ct. Ch. Div. Mar. 21, 2019).

28 ⁷ *Baltimore v. Polymer80 Inc.*, No. 24-C-22-002482 (Md. Cir. Ct. June 1, 2022).

⁸ *District of Columbia v. Polymer80, Inc.*, No. 2020-CA-002878-B (D.C. Super. Ct. June 24, 2020).

1 caused indescribable suffering across the country, but gravely endangers every New Yorker.”
2 DEFENDANTS’ GHOST GUN KITS similarly undermine California’s assault weapons ban and
3 endanger every Californian. In fact, Attorney General Bonta of California filed suit against
4 DEFENDANT BLACKHAWK and others in August 2021,⁹ and on May 23, 2022, filed a related
5 motion for preliminary injunction to halt the sales of ghost gun kits by these companies.¹⁰

6 114. DEFENDANTS could have taken steps to avoid supplying individuals in California
7 with GHOST GUN KITS for the manufacture of prohibited assault weapons and/or violating
8 various federal firearms laws. Below is a non-exhaustive list of feasible steps that a reasonable and
9 law-abiding company would have taken to avoid undermining California law and/or federal law:

- 10 a. DEFENDANTS could have blocked Internet Protocol (“IP”) addresses
11 associated with California from accessing their websites and/or the portions
12 of their websites listing GHOST GUN KITS enabling the manufacture of
AR-15 GHOST GUNS;
- 13 b. DEFENDANTS could have refused to ship their GHOST GUN KITS to
California;
- 14 c. DEFENDANTS could have required that their GHOST GUN KITS only be
15 transferred through a sale carried out by an FFL;
- 16 d. DEFENDANTS could have marketed and advertised their products so as to
17 expressly state that they would not sell their products to California residents
and other prohibited by law from owning assault weapons;
- 18 e. DEFENDANTS could have required that only individuals who could legally
19 purchase and possess firearms could purchase their GHOST GUN KITS; and
- 20 f. DEFENDANTS could have included serial numbers on the receivers in their
GHOST GUN KITS and/or required purchasers to serialize those receivers.

21 115. Upon information and belief, DEFENDANTS did not take any of these, or any other
22 reasonable safety precautions, to prevent PROHIBITED PURCHASERS from violating California
23 and/or federal law and endangering the safety of others with the AR-15 GHOST GUNS produced
24 using DEFENDANTS’ GHOST GUN KITS.

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27 ⁹ *People v. Blackhawk Manufacturing Group, Inc.*, No. CGC-21-594577 (Ca. Super. Ct. San.
Fran. Cty. Aug. 18, 2021).

28 ¹⁰ *People v. Blackhawk Manufacturing Group, Inc.*, No. CGC-21-594577 (Ca. Super. Ct. San.
Fran. Cty. May 20, 2022).

1 116. Instead, upon information and belief, DEFENDANTS intentionally targeted
2 PROHIBITED PURCHASERS in California and elsewhere.

3 117. For example, Cody Wilson of DEFENSE DISTRIBUTED/GHOST GUNNER,
4 named one of the “15 most dangerous people on the internet” in 2015,¹¹ has publicly expressed his
5 aim to get around and any and all gun regulations, and has confirmed that much of DEFENSE
6 DISTRIBUTED/GHOST GUNNER’s business comes from California.¹² On information and
7 belief, Wilson has already begun planning a way to circumvent and undermine the recently
8 published DOJ rule cementing that lower receivers alone can be “firearms” and subject to state and
9 federal firearms laws¹³ to continue providing customers, including those in the PROHIBITED
10 JURISDICTION of California, with the means to make banned AR-15 style assault rifles.

11 118. Similarly, on its website, BLACKHAWK incorrectly tells customers that “in our
12 home state of California, as well as almost every other state in the U.S., it is legal to build your own
13 firearm for personal use.” See <https://www.80percentarms.com/pages/faq.html>.

14 119. Upon information and belief, during all relevant times hereto, DEFENDANTS each
15 intentionally marketed and/or advertised their GHOST GUN KITS with the intention and
16 knowledge that they would attract the business of PROHIBITED PURCHASERS including from
17 PROHIBITED JURISDICTIONS.

18 120. At all relevant times, on information and belief DEFENDANTS knew that GHOST
19 GUN KITS are frequently used by PROHIBITED PURCHASERS to commit crimes yet have not
20 changed their reckless and unlawful business practices in the face of the massive public safety
21 burdens imposed on the State of California and other PROHIBITED JURISDICTIONS.

22
23
24
25 _____
26 ¹¹ See <https://abcnews.go.com/US/meet-cody-wilson-crypto-anarchist-3d-print-unregulated/story?id=57013501>.

27 ¹² See, e.g., <https://www.theguardian.com/us-news/2016/jun/06/cody-wilson-3d-guns-printing-firearms-lower-receivers>.

28 ¹³ See <https://reason.com/video/2022/01/12/cody-wilson-thwarts-another-attempt-to-stop-ghost-guns/>.

1 **C. The GHOST GUN KIT Market and DEFENDANTS' Role as a Substantial**
2 **Portion of that Market**

3 121. Upon information and belief, DEFENDANTS intentionally made and/or aided and
4 abetted the making of GHOST GUN KITS for AR-15 GHOST GUNS in or into California leading
5 up to and at the time of NEAL's purchase of the GHOST GUN KITS used to make the AR-15
6 GHOST GUNS used in the TEHAMA COUNTY MASSACRE.

7 122. Upon information and belief, DEFENDANTS also knowingly targeted marketing
8 and advertising to a dangerous subclass of California consumers – PROHIBITED PURCHASERS
9 – who had no or limited access to legally purchasing AR-15 style firearms by virtue of disqualifying
10 criminal records, mental illness, and/or relevant legal restrictions, including age.

11 123. Upon information and belief, DEFENDANTS, in aggregate, were responsible for
12 making, advertising, and/or marketing a substantial percentage of the market for all GHOST GUN
13 KITS for the manufacture of AR-15 GHOST GUNS which entered into California leading up to
14 and during the November 2017.

15 124. Upon information and belief, there is a substantial probability that one or more of
16 the DEFENDANTS sold NEAL one or more of the GHOST GUN KITS he used to assemble the
17 AR-15 GHOST GUNS used in the TEHAMA COUNTY MASSACRE, either online or via some
18 other medium, with full knowledge that (1) NEAL was a resident of California, (2) that California
19 prohibits the possession of AR-15 style rifles, and (3) AR-15 style rifles have frequently been used
20 in mass shootings, including in California.

21 125. Upon information and belief, there is a substantial probability that one or more of
22 the DEFENDANTS shipped one or more of the GHOST GUN KITS used to assemble the AR-15
23 GHOST GUNS used in the attack by NEAL.

24 126. DEFENDANTS GHOST GUN KITS that can be used to make un-serialized AR-15
25 GHOST GUNS are fungible products. The components of the GHOST GUN KITS, on information
26 and belief, share the same core characteristics and present an equivalent risk of danger to members
27 of the public like PLAINTIFFS. The assembled weapons look, feel, and operate similar to fully
28 finished AR-15 style rifles sold to consumers. Furthermore, because DEFENDANTS sell their

1 products as parts or kits, a consumer could mix and match some combination of multiple GHOST
2 GUN KITS and/or parts from existing AR-15 style rifles interchangeably to assemble an un-
3 serialized AR-15 GHOST GUN. DEFENDANTS' GHOST GUN KITS provide PROHIBITED
4 PURCHASERS like NEAL with an identical capability to possess an assault weapon without ever
5 going through a background check or purchasing from an FFL.

6 127. In fact, during the May 24, 2022 inspection of the firearms confiscated in connection
7 with the TEHAMA COUNTY MASSACRE, the AR-15 style assault rifles looked essentially
8 similar to one another without clear features that could enable the average user to identify which
9 GHOST GUN KITS were used to assemble each such firearm.

10 128. Had DEFENDANTS complied with the state and federal law and ordinary standards
11 of care, NEAL would not have been able to purchase any GHOST GUN KITS or make the AR-15
12 GHOST GUNS he used during the TEHAMA COUNTY MASSACRE. DEFENDANTS, at all
13 pertinent times, took no reasonable precautions to (1) make it more difficult for consumers in the
14 PROHIBITED JURISDICTION of California to obtain their GHOST GUN KITS that were used
15 to make the AR-15 GHOST GUNS that violated California law or (2) make it more difficult for
16 PROHIBITED PURCHASERS like NEAL to obtain GHOST GUN KITS at all.

17 129. Without access to DEFENDANTS' one or more GHOST GUN KITS, NEAL could
18 not have made the AR-15 GHOST GUNS that were used in the TEHAMA COUNTY MASSACRE
19 that caused injury to each PLAINTIFF.

20 130. The ability of a PROHIBITED PURCHASER like NEAL to obtain
21 DEFENDANTS' GHOST GUN KITS in violation of relevant court orders and state and federal
22 law was particularly foreseeable because NEAL fell within the dangerous subclass of consumers
23 specifically prohibited from possessing AR-15 GHOST GUNS under California and federal laws
24 DEFENDANTS, on information and belief, at all pertinent times were aware through media
25 accounts that PROHIBITED PURCHASERS were frequently obtaining and using GHOST GUN
26 KITS to commit spree shootings.

1 **D. DEFENDANTS GHOST GUN KITS Harmed PLAINTIFFS**

2 131. On November 13-14, 2017, NEAL engaged in a rampage shooting spree spanning
3 across multiple locations in Tehama County, California which left some PLAINTIFFS seriously
4 injured for life while other PLAINTIFFS are the heirs of victims who were killed in the TEHAMA
5 COUNTY MASSACRE. On information and belief, NEAL used up to three AR-15 GHOST
6 GUNS made using DEFENDANTS' GHOST GUN KITS.

7 132. As the general public was recently reminded in Uvalde, Texas, AR-15 style firearms
8 were designed to be particularly lethal and were never intended to be in the hands of children,
9 young men with undeveloped emotional control, violent people, the mentally disturbed, and
10 criminals. Victims of the AR-15 murders in Uvalde are reported to have been left so unrecognizable
11 as to require genetic testing to identify their remains, others – including a devoted teacher – were
12 reported to be decapitated as a result of being shot. AR-15 style firearms are intended to be used
13 at a distance of 300-400 meters, not at close range, yet they remain a favorite of mass killers
14 precisely because of the rapid and grotesque carnage they inflict at close range.

15 133. PLAINTIFF CARDENAS was just feet away when NEAL pulled up alongside his
16 car in a stolen vehicle on Rancho Tehama Road, in the community of Rancho Tehama Reserve
17 (outside of the City of Corning, CA), and opened fire on CARDENAS, shooting him through a
18 femoral artery. CARDENAS almost bled out before he was evacuated by air ambulance and barely
19 escaped with his life, arriving at a trauma center in Redding, CA with almost no pulse. He was
20 injured and suffered grievous and permanent injuries to his physical, mental, emotional, and
21 nervous systems. He had to, and will have to in the future, rely on surgeons and other physicians,
22 and undergo other and further expense for his medical care. He has lost wages and suffered great
23 reduction in his working capacity and future wages as a result of his disabling gunshot injury
24 proximately caused by DEFENDANTS. CARDENAS has also suffered loss of companionship and
25 consortium with his wife.

26 134. PLAINTIFFS DANNY ELLIOTT II, DIANA STEELE, MICHELLE
27 MCFADYEN, and JOSEPH MCHUGH, were fatally shot.

1 135. PLAINTIFFS, TROY MCFADYEN, PHILLIP BOW, SIA BOW, BOB STEELE,
2 MICHAEL ELLIOTT, G.E., a minor, M.E., a minor, MARCIA MCHUGH, and GRACE
3 MCHUGH have been deprived of the care, comfort, society and support of their loved ones,
4 DANNY ELLIOTT II, DIANA STEELE, MICHELLE MCFADYEN, and JOSEPH MCHUGH.

5 136. PLAINTIFFS TROY MCFADYN, TIFFANY PHOMMATHEP, J.P., II, a minor,
6 J.P., a minor, N.P., a minor, A.H., a minor, JAMES WOOD JR and JAMES WOOD SR. were
7 injured and suffered grievous and permanent injuries to their physical, mental, emotional and
8 nervous systems. They were forced to hire physicians and surgeons. Additionally, they have
9 suffered lost wage and greatly reduced working capacity.

10 137. PLAINTIFF TIFFANY PHOMMATHEP suffered serious and grievous injuries,
11 which has caused her husband, JOHN PHOMMATHEP to suffer the loss of love, companionship,
12 comfort, care, assistance, protection, affection, society, child-rearing, marital relations, and moral
13 support that TIFFANY PHOMMATHEP would have provided had this incident now occurred.

14 138. Prior to the shooting, NEAL was prohibited from possession firearms by one or
15 more court orders. The order(s) required authorities to arrest NEAL if he violated the orders.
16 Multiple PLAINTIFFS and/or their loved ones were named as protected parties on one or more of
17 these orders, including PLAINTIFF BOB STEELE and G.E., as well as decedent DIANA STEELE.

18 139. During his rampage, NEAL was in possession of and used at least two or three AR-
19 15 style semiautomatic rifles. These firearms were “ghost guns.”

20 140. At the time of the shooting, NEAL’s AR-15 GHOST GUNS lacked any identifying
21 serial numbers.

22 141. It is unknown precisely how or where NEAL acquired the AR-15 GHOST GUNS
23 he used or what GHOST GUN KITS he used to make the untraceable AR-15 GHOST GUNS used
24 in the attack. Given DEFENDANTS’ actions, it may be impossible to the manufacturers involved
25 in making and selling the GHOST GUN KITS that NEAL, on information and belief, used to
26 assemble the AR-15 GHOST GUNS used in the attacks.

27 142. This uncertainty is largely because DEFENDANTS’ GHOST GUN KITS are
28 designed to be interchangeable so they can be swapped in or out of different AR-15 style firearm

1 configurations. On information and belief, parts and tools comprising DEFENDANTS GHOST
2 GUN KITS are nearly identical visually and sold as individual parts, such that a consumer like
3 NEAL could assemble an AR-15 style assault rifles using DEFENDANTS' parts interchangeably.

4 143. Upon information and belief, NEAL could not have legally acquired an AR-15
5 GHOST GUN like those used in the TEHAMA COUNTY MASSACRE in the attack from an FFL
6 either inside or outside of California, because of his status as a California resident and California's
7 ban on the possession of assault weapons.

8 144. Upon information and belief, NEAL also could not have secured an acquired an AR-
9 15 GHOST GUN like those used in the TEHAMA COUNTY MASSACRE – or, indeed, any
10 firearm – from an FFL because he was displaying erratic and disturbing behavior for a significant
11 period of time leading up to the shooting.

12 145. The above discussion is not intended to be an exhaustive listing of the reasons why
13 NEAL could not have purchased a serialized, fully assembled AR-15 style rifle from an FFL.
14 Various other California or federal firearms restrictions may also have blocked such a sale and
15 subsequent possession.

16 146. NEAL was only able to acquire and make the AR-15 GHOST GUNS in his arsenal
17 of weapons used during the TEHAMA COUNTY MASSACRE through the intentional, knowing,
18 and negligent actions of DEFENDANTS. Had DEFENDANTS complied with the law and ordinary
19 standards of care, NEAL would not have been able to use “ghost guns” to harm PLAINTIFFS.

20 **FIRST CLAIM FOR RELIEF**

21 **Negligence – against all DEFENDANTS**

22 147. PLAINTIFFS hereby incorporate by reference all preceding paragraphs as though
23 set out in full herein.

24 148. A maker and/or seller of GHOST GUN KITS – particularly parts/kits intended to be
25 assembled into highly and inherently dangerous AR-15 GHOST GUNS commonly used by mass
26 shooters like NEAL – owes a duty of care to the general public when selling such items.

1 149. This standard of care imposes a duty to take all reasonable and practical safety
2 precautions to prevent dangerous PROHIBITED PURCHASERS like NEAL from gaining access
3 to GHOST GUN KITS designed and intended for making AR-15 GHOST GUNS.

4 150. Such safety precautions for makers and sellers of GHOST GUN KITS for making
5 AR-15 GHOST GUNS would include, but are not limited to, becoming and staying educated about
6 relevant state and federal firearms laws regarding assault weapons and ghost guns, refusing to ship
7 to PROHIBITED JURISDICTIONS, blocking all IP addresses from such PROHIBITED
8 JURISDICTIONS, and expressly stating in their advertising and marketing materials that their
9 parts/kits will not be sold to individuals who are ineligible to purchase assault weapons.
10 Additionally, a responsible maker or seller of GHOST GUN KITS for making AR-15 GHOST
11 GUNS would take steps to verify that only individuals legally permitted to possess firearms and
12 not PROHIBITED PURCHASERS were buying its GHOST GUN KITS—such as by requiring all
13 transactions to go through an FFL in the buyer’s home state.

14 151. DEFENDANTS knew or should have known of the dangers posed by their
15 untraceable products when advertised, marketed, and sold to individuals like NEAL who would not
16 otherwise have been able to legally obtain an AR-15 style assault rifle. Yet upon information and
17 belief, DEFENDANTS had not at the time NEAL purchased the DEFENDANTS’ GHOST GUN
18 KITS, taken these or any other reasonable safety precautions which would have blocked NEAL’s
19 ability to make the AR-15 GHOST GUNS he used during the TEHAMA COUNTY MASSACRE.

20 152. DEFENDANTS’ failure to take even basic precautions in their manufacturing, sales,
21 marketing, and advertising practices constitutes a breach of their duty of care and proximately
22 caused PLAINTIFFS’ harm by enabling NEAL to make AR-15 GHOST GUNS he could not have
23 legally acquired.

24 153. Had NEAL been denied access to the GHOST GUN KITS used to make the AR-15
25 GHOST GUNS used during the TEHAMA COUNTY MASSACRE, he would not have possessed
26 the AR-15 GHOST GUNS that, on information and belief, were used to harm one or more
27 PLAINTIFFS.

28

1 154. As a direct, proximate, actual, immediate and foreseeable result of DEFENDANTS
2 actions that enabled NEAL to make the highly lethal, illegal and dangerous AR-15 GHOST GUNS
3 he used during the TEHAMA COUNTY MASSACRE, PLAINTIFFS or their loved ones were
4 injured and suffered grievous and permanent injuries to their physical, mental, emotional and
5 nervous systems, all to their detriment in an amount greatly in excess of the minimum jurisdiction
6 of this Court.

7 155. As a further direct, proximate, actual, immediate and foreseeable result of
8 DEFENDANTS' conduct that enabled NEAL to make and possess AR-15 GHOST GUNS in
9 violation of court orders and state and federal laws, PLAINTIFFS and their loved ones have had
10 to, and will have to in the future, rely on surgeons and other physicians, and undergo other and
11 further expense for their medical care, in amounts which cannot yet be fully ascertained.

12 156. As a further direct, proximate, actual, immediate, and foreseeable result
13 DEFENDANTS' making and sale, on information and belief, of GHOST GUN KITS to NEAL,
14 enabled him to make and possess the AR-15 GHOST GUNS he used during the TEHAMA
15 COUNTY MASSACRE, PLAINTIFFS and/or their loved ones have lost wages and suffered a great
16 reduction in their working capacity and future wages as a result of disabling gunshot injuries
17 proximately caused by DEFENDANTS. PLAINTIFFS are informed and believe and, on such
18 information and belief each state, that this reduction in earning capacity will continue into the future
19 in an amount which cannot yet be ascertained.

20 157. As a further, direct, proximate, actual, immediate and foreseeable result of the
21 aforementioned actions, and conduct of DEFENDANTS, PLAINTIFFS have suffered loss of
22 companionship and consortium with loved ones.

23 158. As a further, direct, proximate, actual, immediate and foreseeable result of the
24 aforementioned actions, and conduct of DEFENDANTS, which enabled NEAL to make, possess,
25 and use the AR-15 GHOST GUNS, PLAINTIFFS and their loved ones have suffered, and will
26 continue to suffer in the future, consequential damages and other incidental damages and out-of-
27 pocket expenses, all to PLAINTIFFS' general damages in a sum to be determined at the time of
28 trial.

1 differences, of those models listed in subdivision (a), regardless of the manufacturer.”); and
2 § 30605(a) (criminalizing possession of an assault weapon).

3 165. DEFENDANTS are manufacturer/sellers of GHOST GUN KITS who intentionally
4 targeted – and continue to target – PROHIBITED JURISDICTIONS, including the California
5 market by making, selling and shipping GHOST GUN KITS for making AR-15 GHOST GUNS to
6 PROHIBITED PURCHASERS in California like NEAL. DEFENDANTS did so, and continue to
7 do so, with the knowledge and intention that those PROHIBITED PURCHASERS will use their
8 GHOST GUN KITS to make, possess, and use banned AR-15 GHOST GUNS prohibited under
9 California law.

10 166. DEFENDANTS are, thus, responsible as knowing accomplices, for their
11 consumers’ direct violations of, at minimum, California’s ban on the possession of assault weapons
12 including AR-15 GHOST GUNS. *See* Cal. Pen. Code § 31 (anyone who “aid[s] and abet[s]” in the
13 commission of an offense is a principal); § 971 (“all persons concerned in the commission of a
14 crime, who by the operation of other provisions of this code are principals therein, shall hereafter
15 be prosecuted, tried and punished as principals”); and § 27(a)(1) (California has jurisdiction over
16 crimes where at least part of the offense takes place within the state).

17 167. DEFENDANTS may also be responsible, either directly or as an accomplice, for
18 violation of one or more additional state or federal firearms laws, including, but not limited to,
19 various provisions of the Gun Control Act of 1968 or the National Firearms Act.

20 168. In addition to the foregoing laws explicitly referencing firearms, DEFENDANTS
21 also violated California statutes prohibiting unfair, immoral and reckless business practices and the
22 creation and maintenance of public nuisances, as discussed further below. *See* Cal. Bus. & Prof
23 Code § 17200”; Cal. Civ. Code §§ 3479, 3480.

24 169. Whichever DEFENDANT or DEFENDANTS are responsible, either directly or as
25 an accomplice, for making and/or selling the GHOST GUN KITS NEAL used to make AR-15
26 GHOST GUNS in violation of one or more statutes including, at minimum, California’s assault
27 weapons ban, breached the standard of care imposed by statute.
28

1 170. This violation proximately caused PLAINTIFFS' harm by providing NEAL access
2 to make, possess, and use AR-15 GHOST GUNS that he could not have legally acquired in
3 California.

4 171. Had NEAL been denied access to the GHOST GUN KITS used to make the AR-15
5 GHOST GUNS he used in the TEHAMA COUNTY MASSACRE, he could not have used such
6 weapons to harm PLAINTIFFS and/or their loved ones.

7 172. As a direct, proximate, actual, immediate, and foreseeable result of the actions and
8 conduct of DEFENDANTS, which enabled NEAL to make AR-15 GHOST GUNS, PLAINTIFFS
9 were injured and suffered grievous and permanent injuries to their physical, mental, emotional and
10 nervous systems, all to their detriment in an amount greatly in excess of the minimum jurisdiction
11 of this Court.

12 173. As a further direct, proximate, actual, immediate, and foreseeable result of the
13 actions and conduct of DEFENDANTS, which enabled NEAL to make AR-15 GHOST GUNS,
14 PLAINTIFFS had to, and will have to in the future, rely on surgeons and other physicians, and
15 undergo other and further expenses for their medical care, in amounts which cannot yet be fully
16 ascertained.

17 174. As a further direct, proximate, actual, immediate, and foreseeable result of the
18 actions and conduct of DEFENDANTS, which enabled NEAL to make AR-15 GHOST GUNS,
19 PLAINTIFFS have lost wages and suffered great reduction in their working capacity and future
20 wages as a result of their disabling gunshot injuries proximately caused by DEFENDANTS.
21 PLAINTIFFS are informed and believe and, on such information and belief state, that their said
22 reduction in earning capacity will continue into the future in an amount which cannot yet be
23 ascertained.

24 175. As a further, direct, proximate, actual, immediate and foreseeable result of the
25 aforementioned actions, and conduct of DEFENDANTS, and each of them, which enabled NEAL
26 to make AR-15 GHOST GUNS, PLAINTIFFS have suffered loss of companionship and
27 consortium with his family members.
28

1 182. Upon information and belief, DEFENDANTS purposefully targeted residents of
2 PROHIBITED JURISDICTIONS with strict gun violence prevention regimes, like California, who
3 were seeking to bypass the laws of their home state.

4 183. By targeting and supplying dangerous individuals already showing contempt for the
5 rule of law and disrespect towards the safety rules accepted by their communities, DEFENDANTS
6 were purposefully selling to a class of purchasers who were inherently showing a high likelihood
7 of misusing their GHOST GUN KITS in a dangerous manner that would cause harm to third parties
8 like PLAINTIFFS.

9 184. Whichever DEFENDANT or DEFENDANTS made, sold and/or shipped one or
10 more GHOST GUN KITS for making AR-15 GHOST GUNS prohibited by California law to
11 NEAL, despite reasonably knowing or should have known that he was a California resident and
12 that California prohibits such weapons were, thus, negligently entrusting these one or more items.

13 185. This violation of relevant standards of care proximately caused PLAINTIFFS' harm
14 by granting NEAL access to AR-15 GHOST GUNS that he could not have legally acquired in
15 California.

16 186. Had NEAL been denied access to the GHOST GUN KITS he used to make his AR-
17 15 GHOST GUNS, he could not have used these weapons to harm PLAINTIFFS.

18 187. As a direct, proximate, actual, immediate and foreseeable result of the actions and
19 conduct of DEFENDANTS, which enabled NEAL to make, possess, and use AR-15 GHOST
20 GUNS in violation of California law, PLAINTIFFS were injured and suffered grievous and
21 permanent injuries to their physical, mental, emotional and nervous systems, all to their detriment
22 in an amount greatly in excess of the minimum jurisdiction of this Court.

23 188. As a further direct, proximate, actual, immediate and foreseeable result of the
24 actions and conduct of DEFENDANTS, which enabled NEAL to make, possess, and use AR-15
25 GHOST GUNS in violation of California law, PLAINTIFFS had to, and will have to in the future,
26 rely on surgeons and other physicians, and undergo other and further expense for their medical
27 care, in amounts which cannot yet be fully ascertained.

28

1 189. As a further direct, proximate, actual, immediate and foreseeable result of the
2 actions and conduct of DEFENDANTS, which enabled NEAL to make, possess, and use AR-15
3 GHOST GUNS in violation of California law, PLAINTIFFS have lost wages and suffered great
4 reduction in their working capacity and future wages as a result of their disabling gunshot injuries
5 proximately caused by DEFENDANTS. PLAINTIFFS are informed and believe and, on such
6 information and belief state, that this said reduction in earning capacity will continue into the future
7 in an amount which cannot yet be ascertained.

8 190. As a further, direct, proximate, actual, immediate and foreseeable result of the
9 aforementioned actions, and conduct of DEFENDANTS, and each of them, which enabled NEAL
10 to make, possess, and use AR-15 GHOST GUNS in violation of California law, PLAINTIFFS have
11 suffered loss of companionship and consortium with their families.

12 191. As a further, direct, proximate, actual, immediate and foreseeable result of the
13 aforementioned actions, and conduct of DEFENDANTS, and each of them, which enabled NEAL
14 to make, possess, and use AR-15 GHOST GUNS in violation of California law, PLAINTIFFS have
15 suffered, and will continue to suffer in the future, consequential damages and other incidental
16 damages and out-of-pocket expenses, all to PLAINTIFFS' general damages in a sum to be
17 determined at the time of trial.

18 192. As a further, direct, proximate, actual, immediate and foreseeable result of the
19 aforementioned actions, and conduct of DEFENDANTS, and each of them, which enabled NEAL
20 to make, possess, and use AR-15 GHOST GUNS in violation of California law, PLAINTIFFS have
21 had to retain legal counsel to protect and vindicate their rights. Therefore, DEFENDANTS, and
22 each of them, are liable to PLAINTIFFS for attorney's fees incurred by PLAINTIFFS in a sum to
23 be determined at the time of trial.

24 193. DEFENDANTS negligent entrustment of the dangerous instrumentalities, as set
25 forth above, was a substantial factor in causing PLAINTIFFS' harm.

26 194. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS and
27 each of their conduct was done in a conscious and deliberate disregard for the rights and safety of
28 others, including PLAINTIFFS, and in a willful and reckless manner making the infliction of

1 grievous bodily injury and/or death highly probable. DEFENDANTS conduct was despicable,
2 willful, wanton and malicious within the meaning of California Civil Code §§ 3294, so as to warrant
3 the imposition of punitive and exemplary damages against them in the fullest extent allowed by
4 law.

5 195. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS, and
6 each of them, are negligent or in some other way responsible for acts of which PLAINTIFFS are
7 unaware.

8 **FOURTH CLAIM FOR RELIEF**

9 **Public Nuisance – against all DEFENDANTS**

10 196. PLAINTIFFS hereby incorporate by reference all preceding paragraphs as though
11 set out in full herein.

12 197. By negligently, recklessly, and/or intentionally making and selling vast quantities
13 of GHOST GUN KITS enabling the making of AR-15 GHOST GUNS to buyers in California in
14 violation of, at a minimum, California law, DEFENDANTS have negligently and/or knowingly
15 participated in creating and maintaining an unreasonable interference with the rights held in
16 common by the general public. This constitutes a public nuisance under California law, including
17 California Civil Code §§ 3479 and 3480.

18 198. Without limitation, the acts of DEFENDANTS as alleged herein caused, created,
19 and continue to maintain a substantial and unreasonable interference with the public's health,
20 safety, convenience, comfort, peace, and use of public property and/or private property. These
21 activities are injurious to health and offensive to the senses so as to interfere with the comfortable
22 enjoyment of life or property in an entire community or neighborhood. Numerous members of the
23 public are threatened, killed, injured, or are victims of criminal acts as a result of GHOST GUN
24 KITS sold by DEFENDANTS. DEFENDANTS' acts and omissions as alleged herein cause a
25 substantial and unreasonable increase in the number of members of the general public who are
26 threatened, killed, and injured by "ghost guns."

27 199. The acts and omissions of DEFENDANTS, as alleged herein, substantially and
28 unreasonably interfere with the public's use of public facilities, including the use of public

1 highways and walkways. Public highways and walkways are made substantially and unreasonably
2 unsafe because of the presence of “ghost guns” intentionally, negligently and unlawfully supplied
3 by DEFENDANTS.

4 200. DEFENDANTS’ acts and omissions as alleged herein substantially and
5 unreasonably (a) increase the number of “ghost guns” in and on public facilities, including on
6 public highways and walkways; (b) increase the degree to which unlawful possessors in and on
7 public facilities, including on highways and walkways, are illegally armed with weapons; and
8 (c) allow for banned assault weapons to be present in California, including on public highways and
9 walkways.

10 201. DEFENDANTS’ acts and omissions as alleged herein cause substantial and
11 unreasonable interferences with the public’s health, safety, convenience, comfort, and peace in
12 numerous other ways, including: (a) increasing the number of unlawful possessors of weapons
13 who use these weapons to commit violent crimes against innocent members of the general public;
14 (b) increasing the number and severity of property crimes committed by those in possession of
15 “ghost guns” against innocent members of the general public; (c) increasing the number and
16 severity of incidents in which those in possession of “ghost guns” disturb the peace by being
17 disorderly; and (d) increasing the amount of society’s resources that are diverted toward dealing
18 with the problems associated with the possession of “ghost guns.”

19 202. DEFENDANTS know or have reason to know that the acts and omissions alleged
20 herein caused substantial and unreasonable interferences with the public’s health, safety,
21 convenience, comfort, peace, and use of public facilities. DEFENDANTS’ acts and omissions as
22 alleged herein were undertaken with negligent and/or intentional disregard of the rights of the
23 general public. DEFENDANTS knew that they could have taken precautions as outlined above
24 that would have eliminated or minimized the injuries to the general public. Instead, they chose not
25 to take those precautions and, in fact, actively exacerbated these risks with the irresponsible
26 marketing campaign described herein in order to maximize their profits.

27 203. DEFENDANTS’ interference with the public’s health, safety, convenience,
28 comfort, peace, and use of public facilities is unreasonable, unlawful, substantial, significant,

1 continuing, and long-lasting. This interference is annoying, offensive, and disturbing to an ordinary
2 person. The interference is not insubstantial or fleeting and involves deaths and serious injuries
3 suffered by many people and a severe disruption of public health, peace, order, and safety.

4 204. The manner in which DEFENDANTS make, sell, and market their products has no
5 social utility. Even if it did, the seriousness of their interference with the rights of the public and
6 harm they cause far outweighs any social utility associated with DEFENDANTS' conduct.

7 205. DEFENDANTS' unlawful, negligent and/or intentional creation and maintenance
8 of the public nuisance directly and proximately caused significant harm, including serious physical
9 injury and associated harm to PLAINTIFFS that is different from the harm suffered by other
10 members of the public, including loss of enjoyment of life, as well as those damages set forth above,
11 all to their damage in an amount to be determined at a trial of this matter.

12 206. PLAINTIFFS have not, at any time, consented to DEFENDANTS' conduct.

13 207. At all times herein mentioned, DEFENDANTS had notice and knowledge that their
14 actions created a public nuisance.

15 208. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS and
16 each of their, conduct was done in a conscious disregard and deliberate disregard for the rights and
17 safety of others, including PLAINTIFFS, and in a willful and reckless manner making the infliction
18 of grievous bodily injury and/or death highly probable. DEFENDANTS conduct was despicable,
19 willful, wanton and malicious within the meaning of California Civil Code §§ 3294, so as to warrant
20 the imposition of punitive and exemplary damages against them in the fullest extent allowed by
21 law.

22 **FIFTH CLAIM FOR RELIEF**

23 **Violation of Business and Professions Code Section 17200 (Unfair and Unlawful**
24 **Competition in Sales Practices) – against all DEFENDANTS**

25 209. PLAINTIFFS hereby incorporate by reference all preceding paragraphs as though
26 set out in full herein.

1 210. DEFENDANTS in the course of their retail business of selling GHOST GUN KITS
2 engaged in business acts or practices that were unlawful, unfair, deceptive, or misleading, and
3 which therefore violated Bus. & Prof Code § 17200.

4 211. By selling GHOST GUN KITS to NEAL, a dangerous individual, who was a
5 PROHIBITED PURCHASER, enabling him to make AR-15 GHOST GUNS in violation of state
6 and/or federal law, DEFENDANTS engaged in business practices that were unlawful, immoral,
7 unethical, oppressive, and unscrupulous.

8 212. Also, by supplying to a subclass of purchasers who are inherently showing a high
9 likelihood of misusing their GHOST GUN KITS in a dangerous manner that would cause harm to
10 third parties like PLAINTIFFS, DEFENDANTS engaged in business practices that were unlawful,
11 immoral, unethical, oppressive, and unscrupulous.

12 213. As a direct and proximate result of the foregoing acts and practices, DEFENDANTS
13 have received income, profits, and other benefits, which they would not have received if
14 DEFENDANTS had not engaged in the violations of Bus. & Prof Code § 17200 as described in
15 this Complaint for Damages.

16 214. Further, upon information and belief, had DEFENDANTS not violated California's
17 prohibition on such unethical and unlawful marketing and business practices, NEAL could not have
18 acquired GHOST GUN KITS used to assemble his AR-15 GHOST GUNS or used them to harm
19 PLAINTIFFS.

20 215. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS and
21 each of their conduct was done in a conscious disregard and deliberate disregard for the rights and
22 safety of others, including PLAINTIFFS, and in a willful and reckless manner making the infliction
23 of grievous bodily injury and/or death highly probable. DEFENDANTS conduct was despicable,
24 willful, wanton and malicious within the meaning of California Civil Code §§ 3294, so as to warrant
25 the imposition of punitive and exemplary damages against them in the fullest extent allowed by
26 law.

27 216. To prevent their unjust enrichment, DEFENDANTS and each of them, should be
28 required, pursuant to Bus. and Prof Code sections 17200, *et seq.*, to disgorge their ill-gotten gains

1 for the purpose of making full restitution to PLAINTIFFS as a consequence of DEFENDANTS
2 unlawful and unfair activities, injunctive relief, as well as all attorney's fees and costs.

3 **SIXTH CLAIM FOR RELIEF**

4 **Violation of Business and Professions Code Section 17200 (Unfair Marketing Tactics) –**
5 **against all DEFENDANTS**

6 217. PLAINTIFFS hereby incorporate by reference all preceding paragraphs as though
7 set out in full herein.

8 218. DEFENDANTS in the course of their retail business of making and selling GHOST
9 GUN KITS, engaged in business acts or practices that were unfair, deceptive, or misleading, and
10 which therefore violated Bus. & Prof Code § 17200.

11 219. Specifically, by employing marketing tactics which emphasized that their products,
12 including kits for banned assault weapons, were untraceable and could be acquired without a
13 background check or an interaction with an FFL, DEFENDANTS intentionally targeted
14 PROHIBITED PERSONS like NEAL. Such tactics and practices were unfair, immoral, unethical,
15 oppressive, and unscrupulous.

16 220. As a direct and proximate result of the foregoing acts and practices, DEFENDANTS
17 have received income, profits, and other benefits, which they would not have received if
18 DEFENDANTS had not engaged in the violations of Bus. & Prof Code § 17200 as described in
19 this Amended Complaint for Damages.

20 221. Further, upon information and belief, had DEFENDANTS not violated California's
21 prohibition on such unethical and unlawful marketing and business practices, NEAL could not have
22 acquired the parts and tools used to assemble his AR-15 GHOST GUNS or used those weapons to
23 harm PLAINTIFFS.

24 222. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS and
25 each of their conduct was done in a conscious disregard and deliberate disregard for the rights and
26 safety of others, including PLAINTIFFS, and in a willful and reckless manner making the infliction
27 of grievous bodily injury and/or death highly probable. DEFENDANTS conduct was despicable,
28 willful, wanton and malicious within the meaning of California Civil Code §§ 3294, so as to warrant

1 the imposition of punitive and exemplary damages against them in the fullest extent allowed by
2 law.

3 223. PLAINTIFFS are informed and believe and thereon allege that DEFENDANTS and
4 each of their conduct was done in a conscious disregard and deliberate disregard for the rights and
5 safety of others, including PLAINTIFFS, and in a willful and reckless manner making the infliction
6 of grievous bodily injury and/or death highly probable. DEFENDANTS conduct was despicable,
7 willful, wanton and malicious within the meaning of California Civil Code §§ 3294, so as to warrant
8 the imposition of punitive and exemplary damages against them in the fullest extent allowed by
9 law.

10 224. To prevent their unjust enrichment, DEFENDANTS and each of them, should be
11 required, pursuant to Bus. and Prof Code sections 17200, *et seq.*, to disgorge their ill-gotten gains
12 for the purpose of making full restitution to PLAINTIFFS as a consequence of DEFENDANTS'
13 unlawful and unfair activities, injunctive relief, as well as all attorney's fees and costs.

14 **JURY TRIAL DEMANDED**

15 225. PLAINTIFFS request and demand trial by jury as to each and every fact, claim, and
16 cause of action alleged and pleaded herein.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFFS pray for judgment and relief against DEFENDANTS, jointly
19 and severally, as follows:

- 20 1. Compensatory damages for physical and emotional pain and suffering, including
21 those non-economic damages which are enumerated under Cal. Civil Code § 1431.2(b)(2);
- 22 2. Compensatory damages for past medical expenses;
- 23 3. Compensatory damages for future medical expenses and medical monitoring;
- 24 4. Compensatory damages for past and future wage loss and loss of earning capacity;
- 25 5. Compensatory damages for damage to or destruction of personal property;
- 26 6. Punitive, incidental, presumed, and nominal damages.
- 27 7. Attorney's fees, including pursuant to Code of Civ. Pro. § 1021.5 (California Private
28 Attorney General Doctrine) and § 2033.420(a) (in the event PLAINTIFFS have to prove up any

1 facts which DEFENDANTS refused to admit in their responses to PLAINTIFFS' Requests for
2 Admissions);

3 8. Costs of litigation;

4 9. Pre- and post-judgment interest awardable at the highest legal rate(s) allowable,
5 including without limitation under Cal. Civil Code §§ 3287 and/or 3291; and

6 10. Such further relief as the Court deems just and proper.

7
8 Respectfully Submitted,

9
10 Dated: June 24, 2022

11 ORRICK HERRINGTON & SUTCLIFFE LLP
12 AMY K. VAN ZANT
13 SHAYAN SAID
14 AMANDA H. SCHWARTZ
15 DANNY BAREFOOT
16 C. ANNE MALIK
17 CHRISTIE BOYDEN

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By: /s/ Amy K. Van Zant

AMY K. VAN ZANT
Attorneys for PLAINTIFFS
Francisco Gudino Cardenas and
Troy McFadyen, et al.

1 **PROOF OF SERVICE**

2 I am employed in the County of San Mateo, State of California. I am over the age of
3 eighteen years old and not a party to this action. My business address is Orrick, Herrington &
4 Sutcliffe LLP, 1000 Marsh Rd., Menlo Park, CA 94025.

5 On June 24, 2022, I served the following document(s) entitled:

- 6 • **PLAINTIFFS’ CONSOLIDATED FIRST AMENDED COMPLAINT FOR DAMAGES**
7 on all interested parties to this action in the manner described as follows:

8	(VIA EMAIL) I caused to be transmitted via electronic mail the document(s) listed above to the electronic address(es) set forth below.
9	
10	X (VIA Electronic Means) I caused to be transmitted via electronic means the document(s) listed above to the electronic address(es) set forth below.
11	
12	(VIA U.S. MAIL) By placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Menlo Park, California addressed as set forth below.

13 C.D. Michel
14 Sean A. Brady
15 **MICHEL & ASSOCIATES, P.C.**
16 180 E. Ocean Blvd., Suite 200
17 Long Beach, CA 90802
cmichel@michellawyers.com
sbrady@michellawyers.com

18 *Liaison Counsel and Attorneys for Defendants*
19 *Ghost Firearms, LLC, Thunder Guns, LLC,*
20 *Ryan Beezley and Bob Beezley,*
and MFY Technical Solutions, LLC

21
22 I declare under penalty of perjury under the laws of the State of California that the above
23 is true and correct.

24 Executed on June 24, 2022 at Moss Beach, California.

25
26 /s/ Karin Barnick