

COPY

1 WALKUP, MELODIA, KELLY & SCHOENBERGER
Richard Schoenberger (State Bar No. 122190)
2 rschoenberger@walkuplawoffice.com
Spencer Pahlke (State Bar No. 250914)
3 spahlke@walkuplawoffice.com
Sara Peters (State Bar No. 260610)
4 speters@walkuplawoffice.com
650 California Street, 26th Floor
5 San Francisco, CA 94108
Telephone: (415) 981-7210
6 Facsimile: (415) 391-6965

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

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Sherri R. Carter, Executive Officer/Clerk of Court
By: Tanya Herrera, Deputy

7 EVERYTOWN LAW
8 Alla Lefkowitz (motion for admission *pro hac vice* forthcoming)
alefkowitz@everytown.org
9 Len Hong Kamdang (motion for admission *pro hac vice* forthcoming)
lkamdang@everytown.org
10 Mark Weiner (motion for admission *pro hac vice* forthcoming)
mweiner@everytown.org
11 450 Lexington Avenue, P.O. Box 4184
New York, NY 10017
12 (mailing address)
Telephone: (646) 324-8365
13 Facsimile: (917) 410-6932

14 *Attorneys for Plaintiffs*

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA

16 FOR THE COUNTY OF LOS ANGELES

18 MIA TRETТА, through her guardian ad litem
19 Tiffany Shepis-Tretta,

Case No. **20STCV48910**

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

20 Plaintiff,

JURY TRIAL DEMANDED

21 vs.

22 TERRANCE J. OSMAN, an individual a/k/a
1911builders.com; MAMI MATSURA-
23 BERHOW, an individual; and DOES 1-50,

Action Filed:

Trial Date:

Not yet assigned

24 Defendants.

BY FAX

28

1 **INTRODUCTION**

2 1. This case is about the unlawful and negligent sale of an untraceable home-assembled
3 “ghost gun” that resulted in a 2019 shooting at a Santa Clarita, California high school that left two
4 children dead and three others injured, including sixteen-year-old Plaintiff Mia Tretta, who suffered
5 a gunshot wound to her lower abdomen.

6 2. At 7:30 A.M. on November 14, 2019, then fifteen-year-old Mia, a high school
7 freshman, walked onto the quad of Saugus High School. As she did on most mornings, she made
8 her way to see best friend, fourteen-year-old Dominic Blackwell, to hang out before school began.
9 Unbeknownst to them, at nearly the same time, sixteen-year-old Nathaniel Berhow (“the Shooter”),
10 walked onto the quad armed with an unmarked, 1911-style “Officer Frame” ghost gun.

11 3. The Shooter opened fire on his classmates, killing Dominic along with another
12 student, fifteen-year-old Gracie Anne Muehlberger. He shot Mia in the stomach below her belly
13 button and wounded two other children. The entire attack lasted 8 seconds. Mia was airlifted to a
14 hospital where she spent the next six days, recovering from the gunshot wound and subsequent
15 surgery. Mia survived, but suffers both physical pain and psychological repercussions to this day.
16 The Shooter took his own life with the last round in the gun.

17 4. The Shooter was able to obtain the ghost gun – so called because they are sold
18 without serial numbers and are intended to be untraceable by authorities – because the seller of the
19 kit used to build that gun illegally and negligently sold it either to the minor Shooter directly, or to
20 the Shooter’s father, Mark Berhow, despite the fact that both were prohibited from possessing
21 firearms. Said negligence included but was not limited to (a) designing, constituting, packaging,
22 marketing, advertising, and selling the product in such a manner that it was at least as dangerous as
23 a finished firearm, but removing it from the legal protections and background check requirements
24 that are mandatory in the context of firearm sales, (b) failing to take reasonable steps to ensure that
25 the purchaser was not legally prohibited from purchasing or possessing a firearm, and/or unfit to
26 safely possess a firearm, (c) designing, constituting, packaging, marketing, advertising, and selling
27 the product in such a manner that it was likely to attract buyers unfit to own and possess firearms,
28 and (d) failing to take reasonable steps to ensure that law enforcement can trace the firearm if it is

1 used in a crime.

2 5. By this lawsuit, Plaintiff Mia Tretta, through her mother and guardian ad litem,
3 Tiffany Shepis-Tretta, seeks to hold the seller of that ghost gun kit accountable for the personal
4 injuries she suffered due to his actions and omissions.

5 6. Additionally, Plaintiff seeks to hold the Shooter's mother, his sole legal guardian,
6 responsible for her negligent acts and omissions that allowed the deadly weapon to end up in the
7 hands of her juvenile son.

8 7. Defendant Terrance J. Osman ("Defendant Seller") through his business website,
9 1911builders.com, along with Does One through Fifty, sells the unfinished building blocks of
10 firearms that can quickly and easily be assembled into fully-functioning firearms at home, with the
11 assistance of tools and instructional videos sold on the same website, in violation of federal and
12 California law.

13 8. Defendant Seller and Does One through Fifty deal in these ghost gun kits and
14 components without taking reasonable steps to ensure that purchasers are not prohibited from
15 purchasing or possessing firearms despite knowing that their deadly products will likely end up in
16 the hands of dangerous persons prohibited from legally owning firearms under state and federal law.
17 Furthermore, Defendant Seller and Does One through Fifty do not take reasonable steps to ensure
18 that law enforcement can trace the firearm if it is used in a crime. In fact, Defendant Seller and Does
19 One through Fifty purposefully sell their products without markings to make it difficult for law
20 enforcement to trace the firearm.

21 9. Because the very purpose of ghost guns is to make them untraceable, it is difficult to
22 determine with certainty who manufactured and sold a particular ghost gun. However, upon
23 information and belief, one of the Defendant Seller's ghost guns was used by the Shooter to carry
24 out the tragic mass shooting at Saugus High School in Santa Clarita, California. Plaintiff therefore
25 brings suit against Defendant Seller and Does One through Fifty, individuals and/or corporations,
26 in the event that Defendant Seller was not the seller of the ghost gun used to shoot Mia.

27 10. All sellers of ghost gun kits and components, including Defendant Seller and Does
28 One through Fifty, are creating a public nuisance and acting with gross negligence, recklessness,

1 and malice towards Plaintiff and all Californians by putting untraceable guns in the hands of
2 dangerous persons without a background check. The Bureau of Alcohol, Tobacco, Firearms and
3 Explosives (“ATF”) estimates that about 10,000 ghost guns were recovered in the United States
4 last year, including about 2,700 in California. The rise of ghost guns is the fastest-growing gun
5 safety problem in the United States. By this lawsuit, Plaintiff seeks to hold one such negligent dealer
6 accountable: the seller of the ghost gun used to murder and wound multiple children on a high school
7 campus in November 2019.

8 **JURISDICTION**

9 11. This Court has subject matter jurisdiction under California Code of Civil Procedure
10 § 410.10 because Plaintiff is domiciled in the State of California, the site of injury was in the State
11 of California, and the amount in controversy exceeds \$25,000, the jurisdictional limits of the
12 Superior Court, Limited Jurisdiction. The Court has personal jurisdiction over Defendants in that
13 at all relevant times defendants, and each of them, resided or did business in the State of California,
14 and otherwise had the requisite minimum contacts with the State to justify this Court exercising
15 jurisdiction over them.

16 **VENUE**

17 12. Venue is proper pursuant to California Code of Civil Procedure § 395(a) because the
18 place of injury and loss occurred in the city of Santa Clarita, California, which is within the County
19 of Los Angeles.

20 **PARTIES**

21 13. Plaintiff Mia Tretta was and is at all relevant times a minor who resides in Los
22 Angeles County. She makes this complaint by and through her guardian ad litem and mother Tiffany
23 Shepis-Tretta.

24 14. Defendant Terrance J. Osman is an individual and resident of San Diego County,
25 California. He owns and operates “1911builders.com,” which is located at 825 Kuhn Drive, Suite
26 107, Chula Vista, California. Through this site, 1911builders.com, he sells kits, frames, parts, and
27 the tools to create a finished firearm over the internet with no background checks. Neither Terrance
28 Osman nor 1911builders.com has a federal firearms license.

1 15. Defendant Mami Matsura-Berhow is the mother of the Shooter. Ms. Matsura-
2 Berhow resides at 22938 Sycamore Creek Drive, Santa Clarita, California.

3 16. The true names and capacities, whether individual, corporate, or otherwise, of Does
4 One through Fifty, inclusive, are presently unknown to Plaintiff, who therefore sues them by
5 fictitious names. Plaintiff shall amend the complaint to show the true names of each fictitiously
6 named defendant when ascertained.

7 17. Each Defendant, whether named or unnamed, during all relevant times acted as an
8 employee, agent, alter-ego, co-conspirator, partner, joint venturer, or representative of every other
9 defendant, whether named or unnamed.

10 **GENERAL ALLEGATIONS**

11 **The Shooting**



19 *Mia Tretta*

20 18. Mia Tretta was a fifteen-year-old freshman in high school when she was shot by a
21 ghost gun constructed from a gun kit unlawfully sold by Defendant Seller. She describes the day of
22 the shooting, November 14, 2019, as follows:

23 *I walk into school and head straight for the quad, our normal*
24 *hangout. Dominic—my best friend, and some other friends are already there*
25 *waiting for me. We have a big Spanish test that day and we're all talking*
26 *about how nervous we are. Although Dominic and I have been straight-A*
students our whole lives, we're freshman in high school now. We knew things
always get harder in high school.

27 *Without warning, I hear a LOUD POP. It sounds like when dumb kids*
jump on electrical boxes. But then my ears begin to ring. Everything sounds
28 *like an echo. I hear more pops and then I realize I'm on the ground. I look to*
the side and Dominic is lying next to me. It feels like a dream. I can feel myself

1 *get up. I feel myself scream to him “WE NEED TO RUN!” The quad is empty.*
2 *The quad is never empty. It is just me.*

3 *It feels like a dream. I feel my body running up a ramp. I trip. I keep*
4 *running. I can feel something in my stomach area but I tell myself not to look.*
5 *I touch my stomach. It is wet but I tell myself it is a drill and it is all fake. I*
6 *start to weave side-to-side because I heard once that if you run in a zig-zag*
7 *you make yourself harder to hit as a target.*

8 *I feel my leg start to give out. I make it to a door on the stairs. I see*
9 *kids running and going into classrooms but the door in front of me is locked.*
10 *I feel sick. I bang and bang on the door screaming and pleading for help.*
11 *Two kids grab me and bring me to a classroom. I look up and see my favorite*
12 *teacher Ms. LaGuisa – Spanish. I watch her lock the door and I sit down in*
13 *my normal assigned seat. It feels like a dream. Everyone is staring at me and*
14 *I can tell Mrs. LaGuisa knows something is wrong. I tell her, “I think I’ve*
15 *been shot.”*

16 *It is not until later than night in the hospital that my mother shares*
17 *the horrible news: My best friend Dominic did not survive.*

18 19. After being shot in the pelvic area of her abdomen during the mass shooting, Mia
19 spent six days in the hospital following surgery. After being released for a day, she spiked a high
20 fever and shooting nerve pain. She returned to the hospital for an additional four days. To this day,
21 she finds walking or standing for long periods of time to be exhausting. She continues to feel
22 frequent shooting pains down her leg resulting from nerve damage from the bullet. She has issues
23 with loud noises and her dreams have become frequent nightmares.

24 20. Aside from Mia, two other students were treated and eventually released from the
25 hospital. Two students – fifteen-year-old Gracie Anne Muehlberger and Mia’s best friend, fourteen-
26 year-old Dominic Blackwell – perished in the attack.

27 **The Shooter**

28 21. The Shooter was a fellow Saugus High School student. He committed the shooting
29 on his sixteenth birthday after being dropped off at school by Defendant Matsura-Berhow. The
30 Shooter was able to commit the mass shooting because he had access to a ghost gun assembled from
31 a kit purchased from the Defendant Seller.

32 22. According to Los Angeles County Sheriff Alex Villanueva, surveillance footage
33 showed the Shooter entering the quad, taking out a pistol from his backpack and firing the first
34 round. The gun then jammed, and the Shooter was forced to take time to fix it before firing a series

1 of rounds into four other students. He then used the last round on himself. The Shooter, “seemed
2 very familiar with the weapon,” according to Sheriff Villanueva, and his exact knowledge of how
3 many rounds were in the gun suggests that the shooting “wasn’t a spur of the moment act.”

4 23. Upon information and belief, the ghost gun used by the Shooter was made from a kit
5 purchased from Defendant Seller either by the sixteen-year-old Shooter himself or, more likely, by
6 his father, Mark Berhow.

7 24. Mark Berhow had numerous contacts with law enforcement before his death. He
8 was twice convicted of driving under the influence, in 2013 and 2015, and was on probation
9 stemming from both incidents at the time of his death. He was also sentenced to 45 days in Los
10 Angeles County jail stemming from the second conviction.

11 25. In June 2015, officers responded to a family disturbance call at the Berhow residence.
12 There, they found Mark Berhow intoxicated and with his hands zip tied after he had stricken his
13 daughter and threatened to abuse his wife if she did not purchase more alcohol for him. Mark’s wife
14 informed the police that there were firearms in the home but that she would secure them. Charges
15 were later dropped by Mark’s wife.

16 26. On June 30, 2015, police responded to Mark Berhow’s residence after a neighbor
17 called them regarding a disturbance. There, the police found Mark wandering the streets in his
18 underwear. The neighbor informed the police that he was taking care of the Berhow home after
19 Mark’s family had fled following the earlier incident. The neighbor had found unsecured firearms
20 in the residence; he had unloaded them and hid them under a mattress. Mark then showed up at the
21 neighbor’s home banging the door and yelling for the guns. The police thereafter took Mark to a
22 psychiatric hospital for a review pursuant to Welfare and Institutions Code Section 5150. A search
23 of his home revealed 42 firearms. The firearms included 18 shotguns, 17 rifles, and 7 handguns.
24 Sheriff Villanueva confirmed after the school shooting that “ultimately, at one point all the weapons
25 were lawfully removed from the home and [Mr. Berhow] became a prohibited possessor.”¹ All 42

26 _____
27 ¹ Zusha Elinson, *Saugus High Shooter Used ‘Ghost Gun’ Built From Parts*, The Wall Street
28 Journal (Nov. 21, 2019), <https://www.wsj.com/articles/saugus-high-shooter-used-ghost-gun-built-from-parts-11574360615>.

1 firearms were destroyed by the Los Angeles Sheriff’s Department.

2 27. Mark Berhow passed away from natural causes in December 2017.

3 28. The firearm used by the Shooter was a 1911-style .45 caliber “Officer Frame” ghost
4 gun. Defendant Seller sells precisely this ghost gun kit on 1911builders.com, including the entire
5 kit, tools, and videos necessary for its full home manufacture.

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

7 29. A firearm made by a federally licensed manufacturer must be engraved with
8 identifying information: a unique serial number, as well as the make and model. A ghost gun is a
9 DIY, homemade gun made from commercially available building blocks. It is assembled by an
10 individual rather than by an ATF-licensed manufacturer or importer. A ghost gun has three key,
11 related characteristics: It is unserialized, untraceable, and its core building blocks (the frame for a
12 handgun, or the receiver for a rifle) are acquired without a background check.

13 30. The sale of ghost gun kits and/or components undermines sixty years of federal law
14 directed at preventing dangerous persons from possessing firearms and assisting law enforcement
15 in tracing firearms. In 1968, amid rising rates of violent crime and following several high-profile
16 assassinations—including the killing of President Kennedy with a rifle ordered through the mail—
17 Congress passed landmark legislation to assert federal control over the manufacturing, distribution,
18 purchase, and sale of firearms. One of the principle aims of the Gun Control Act of 1968 (the “Act”)
19 was to shut down the ability of criminals, minors, and persons with dangerous histories to obtain
20 mail-order firearms without any federal oversight or regulation. To achieve this aim, the Act
21 mandated, among other things, that firearms dealers be federally licensed and that every firearm be
22 stamped with a serial number so that law enforcement could trace the origin of the firearm if it ended
23 up being used in a crime. The Act was later amended to require a background check on all purchases
24 of firearms from licensed sellers. But by selling unserialized, easily assembled gun kits without
25 background checks, Defendant Seller and Does One through Fifty are violating the protections
26 afforded by this law.

27 31. As noted above, because they are unserialized, ghost guns are intended to be
28 untraceable. Typically, when police recover a firearm, they use the included serial number and other

1 markings to initiate a trace request through the ATF. By tracing a gun back to its first sale at retail,
2 law enforcement agencies can have an additional lead in an investigation, identify straw purchasers
3 and traffickers, and determine how a gun arrived at a crime scene.

4 32. It is very difficult to trace a ghost gun. It has no recorded history and no records
5 associated with it. In fact, the untraceability of ghost guns is one of their selling points and makes
6 them attractive to criminals and gun traffickers trying to avoid being held responsible when their
7 guns are recovered by law enforcement. One federal appellate court has explicitly noted in the
8 analogous context of handguns with obliterated serial numbers, “[t]here would appear to be no
9 compelling reason why a law-abiding citizen would prefer an unmarked firearm. These weapons
10 would then have value primarily for persons seeking to use them for illicit purposes.”² Sellers of
11 ghost gun kits and/or components simply take the work out of obliterating a serial number.

12 33. Since 2014, sellers of ghost gun components have proliferated over the internet, with
13 over 80 such sellers presently distributing them. These nearly complete firearms are often purchased
14 by or otherwise end up in the hands of people who are prohibited from possessing firearms because
15 of age, dangerous mental health history, or criminal history – people who are attracted by the ability
16 to purchase nearly complete guns without a background check and lacking serial numbers.

17 34. For example, in January of this year, white supremacists planning anti-government
18 actions in Virginia made their own fully automatic assault rifle. In February, a felon and member
19 of the white nationalist group Patriot Front in Texas pled guilty to possession of three homemade
20 assault rifles and one homemade pistol. In March, a California man opened fire with an unserialized
21 handgun on another driver after a minor fender bender, killing the driver and wounding a passenger.
22 In June, a New York man travelling with a far right armed militia to a counter protest was arrested
23 with a ghost gun. In Pennsylvania, an 18-year-old exchange student used a ghost gun site to get all
24 of the parts he needed to make a pistol. This was only discovered after he made a threat to “shoot
25 up” his high school. And, tragically, in May of 2020, two far-right anti-government activists used
26 a ghost gun to murder a security officer for the Oakland, California federal courthouse and a
27

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² *United States v. Marzzarella*, 614 F.3d 85, 95 (3d Cir. 2010).

1 Sheriff's Deputy in Santa Cruz.

2 35. The grim and inevitable result of the sale of ghost gun kits and components is the
3 police increasingly finding these dangerous, untraceable weapons at crime scenes. According to a
4 2019 report, a stunning thirty percent of guns recovered by ATF in California are unserialized. One
5 ATF special agent in Los Angeles cited an even higher recovery rate at the local level: "Forty-one
6 percent, so almost half our cases we're coming across are these ghost guns."³

7 36. Both Mark Berhow and the Shooter were foreseeable users, and indeed were the
8 intended market, for Defendant Seller's ghost gun kits. At all relevant times, California law
9 prohibited Mr. Berhow from purchasing and owning firearms because of his prior psychiatric
10 commitment pursuant to Welfare and Institutions Code Section 5150. At all relevant times,
11 California and federal law prohibited the Shooter from purchasing and owning firearms because of
12 his minority.

13 37. At all relevant times, it was foreseeable to the ghost gun industry, including
14 Defendant Seller and Does One through Fifty, that many if not most buyers purchasing ghost guns
15 or ghost gun "kits" would do so because they were legally prohibited from owning guns or because
16 they had criminal intentions for the purchased ghost gun, or both.

17 **Defendant Seller**

18 38. At all relevant times, Defendant Osman, through his website 1911builders.com,
19 markets and sells ghost gun "kits," along with the tools and instructions to complete them.

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27 ³ Brandi Hitt, *Ghost Guns' Investigation: Law Enforcement Seeing Unserialized Firearms on*
28 *Daily Basis in SoCal*, ABC7 Los Angeles (January 30, 2020), <https://abc7.com/5893043/>.

1 39. At all relevant times, Defendant Seller marketed a .45 caliber 1911 "Officer Frame"
2 ghost gun kit, like the one used to shoot Mia Tretta:



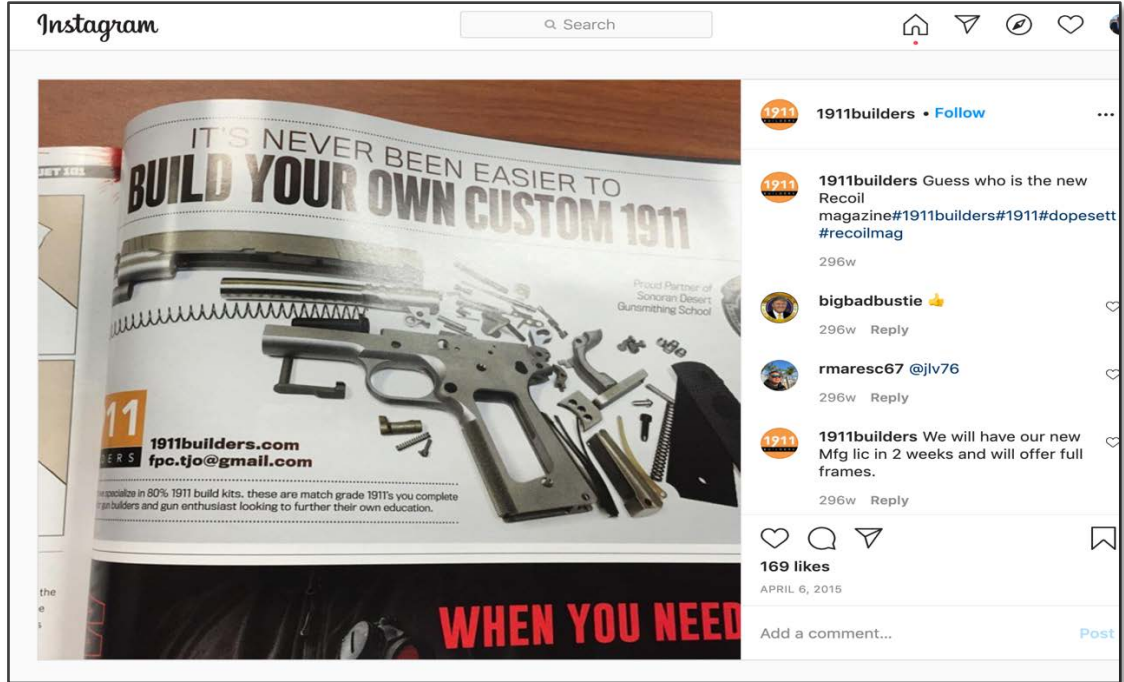
13 *1911 Builder "80% Government 5" 45/0 416 with Checkered Grip and Tactical Rail Novak*
14 *Sights"*

15 40. Upon information and belief, Defendant Seller is the only online seller of complete
16 1911 "Officer Frame" ghost gun kits.

17 41. At all relevant times, Defendant Seller marketed and sold a ghost gun kit, the slide
18 and frame of which match those of the crime gun used in the Saugus shooting:



26 42. As early as 2015, Defendant Seller marketed its 1911 ghost gun kit in *Recoil*
27 *Magazine* and through social media. In its ad Defendant Seller boasted, "IT'S NEVER BEEN
28 EASIER TO BUILD YOUR OWN CUSTOM 1911."



43. The Defendant Seller’s website at all relevant times boasted that its kits “contain[] all parts needed to finish your full size 80% 1911.” It explains that only 4 operations are “left to be completed” in order to have a fully functioning firearm and that only the magazine (which is also available for purchase on the 1911builders.com website) must be purchased separately. Additionally, 1911builders.com sells “Precision Rail Cutters” to complete the machining steps necessary to build the firearm, as well as a webpage of videos to demonstrate the steps necessary to finish the firearm. In other words, at 1911builders.com, any person – no matter their age or criminal history or fitness to possess a lethal weapon – can buy the components, parts, tools, and educational materials necessary to quickly and easily assemble a homemade firearm.

44. The Bureau of Alcohol, Tobacco, Firearms and Explosives – the primary federal regulator of firearms – recently confirmed in a federal search warrant application related to another ghost gun kit seller that a complete kit from which an operable handgun can be quickly and easily assembled is a “firearm” under federal law and requires a serial number and a background check.

45. At all relevant times, Defendant Seller allowed any person to purchase a ghost gun kit with credit cards or even Bitcoin. Defendant Seller further allowed a purchaser to “opt out” of requiring a signature upon delivery and instead “take all the risk in shipping,” meaning the package

1 could end up in just about anybody’s hands upon delivery, regardless of who purchased it. At all
2 relevant times, Defendant Seller did not take the requisite and reasonable steps to ensure that
3 prohibited firearms possessors did not purchase his ghost gun kits, nor do the listed ghost gun frames
4 or receivers have any serial number inscribed on them.

5 46. The Defendant Seller does not even ask whether a purchaser is prohibited by law
6 from possessing a firearm. Defendant Seller merely asks visitors to their website for their age and
7 has a “disclaimer” on Defendant Seller’s website that, “[i]t is the sole responsibility of the buyer to
8 ascertain and obey all applicable local, state, federal, and international laws.”

9 **The Defendants’ Negligent and Unlawful Acts**

10 **A. The Negligence of Defendant Seller and Does One through Fifty**

11 47. At all relevant times, Defendant Seller and Does One through Fifty were subject to
12 the general duty imposed on all persons and entities to act reasonably to avoid exposing others to
13 reasonably foreseeable risks of injury. Indeed, as sellers of ghost gun kits, Defendant Seller and
14 Does One through Fifty are subject to the highest duty of care because of the danger that their
15 products pose, particularly in light of the fact that the firearm kits sold are intended to become
16 operable weapons that are untraceable by authorities, and because the Defendant Seller and Does
17 One through Fifty sold them without background checks, making them likely to be sought out by
18 dangerous persons.

19 48. At all relevant times, Defendant Seller and Does One through Fifty were the owners
20 of dangerous instrumentalities (ghost gun “kits,” tools and instructions for assembling those kits),
21 and Defendant Seller and Does One through Fifty had a duty to take reasonable measures to avoid
22 selling or otherwise providing those dangerous instrumentalities to persons they knew or should
23 have known were incompetent, unsafe, or unfit to receive them.

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1 49. At all relevant times, Defendant Seller illegally, negligently, recklessly, and with
2 malice and oppression, sold a ghost gun kit either to the minor Shooter directly, or to the Shooter’s
3 father, Mark Berhow. Said negligent, reckless, and malicious conduct included but was not limited
4 to:

- 5 a. Willfully designing, constituting, packaging, marketing, advertising, and selling the
6 product in such a manner that it was at least as dangerous as a finished firearm, but
7 removing it from the legal protections, background checks, and serialization
8 requirements that are mandatory in the context of firearm sales,
- 9 b. Willfully failing to take reasonable steps, or indeed any steps at all, to ensure that the
10 purchaser was not legally prohibited from purchasing or possessing a firearm, and/or
11 unfit to safely possess a firearm,
- 12 c. Designing, constituting, packaging, marketing, advertising, and selling the product in
13 such a manner (i.e., as a ghost gun kit without a serial number or background check) that
14 it was likely to attract buyers unfit to own and possess firearms, and
- 15 d. Failing to take reasonable steps, or indeed any steps at all, to ensure that law enforcement
16 could trace the firearm if it were used in a crime.

17 50. At all relevant times, Defendant Seller’s illegal, negligent, reckless, malicious, and
18 oppressive conduct included selling a ghost gun kit either to the Shooter or Mr. Berhow, without
19 taking reasonable measures, or indeed any measures at all, to ensure that the purchaser was legally
20 eligible, fit, and competent to purchase and possess a firearm under federal and state law. Defendant
21 Seller knew or should have known that the Shooter and/or Mr. Berhow were in fact incompetent
22 and unfit to purchase and own a firearm. In fact, as described above, both Mr. Berhow and his son
23 were prohibited from possessing firearms.

24 51. As a direct and proximate result of Defendant Seller’s negligence, recklessness,
25 malice, and oppression, the Shooter was able to gain unlawful possession of a firearm, and Mia
26 suffered the injuries herein alleged.

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28 ////

1 **B. Violations of Federal Laws by Defendant Seller and Does One through Fifty**

2 52. Federal law requires that sellers of firearms obtain federal firearm licenses (“FFL”)
3 prior to engaging in the business of dealing in firearms. *See* 18 U.S.C. § 922(a). Additionally, federal
4 law requires that firearms dealers conduct a background check before transferring firearms, and
5 inscribe serial numbers on all firearms. 18 U.S.C. § 922(t); 26 U.S.C. § 5842.

6 53. At all relevant times, Defendant Seller and Does One through Fifty sold firearms in
7 the form of ghost gun kits and components without an FFL, without serial numbers and without
8 conducting background checks, in violation of federal law.

9 54. Defendant Seller’s actions in dealing in firearms without an FFL, without inscribing
10 serial numbers and without conducting background checks, were a proximate cause of Mia’s
11 injuries.

12 **C. Violations of California Firearms Laws by Defendant Seller and Does One**
13 **through Fifty**

14 55. In 1999, California passed the Unsafe Handgun Act (the “CUHA”), Cal. Penal Code
15 §§ 31900, *et seq.*, to establish safety standards for all handguns manufactured, imported, and sold
16 in the state.

17 56. The primary enforcement clause of CUHA requires that “[a] person in this state who
18 manufacturers or causes to be manufactured, imports into the state for sale, keeps for sale, offers or
19 exposes for sale, gives, or lends an unsafe handgun shall be punished by imprisonment in a count
20 jail not exceeding one year.” Cal. Penal Code § 32000(a).

21 57. An “unsafe handgun” is defined as “any pistol, revolver, or other firearm capable of
22 being concealed upon the person” that does not have certain safety devices, meet firing
23 requirements, or satisfy drop safety requirements. *Id.* § 31910.

24 58. CUHA charges the California Department of Justice with compiling and maintaining
25 a roster of handguns that have been tested and determined not to be unsafe, and therefore, “may be
26 sold in this state.” Cal. Penal Code § 32015.

27 59. At all relevant times, Defendant Seller and Does One through Fifty caused to be
28 manufactured handguns that do not meet the safety requirements of CUHA by marketing, selling,

1 and transferring all of the components, parts, materials, tools and instructional videos needed to
2 build an unsafe handgun.

3 60. The handguns caused to be manufactured by Defendant Seller and Does One through
4 Fifty have not been approved and added to the roster by the California DOJ, as required by state
5 law.

6 61. At all relevant times, Defendant Seller and Does One through Fifty also aided and
7 abetted the manufacture of unsafe handguns by the transferee by marketing, selling, and transferring
8 all of the components, parts, materials, tools and instructional videos needed by the transferee to
9 build an unsafe handgun.

10 62. Defendant Seller and Does One through Fifty's actions in causing to be manufactured
11 unsafe handguns that are prohibited for sale in California were a proximate cause of Mia's injuries.

12 63. Additionally, California law prohibits the purchase or possession of firearms by
13 persons who have been taken into custody pursuant to Welfare and Institutions Code Section 5150.
14 *See* Cal. Welfare and Inst. Code § 8103(f)(1)(A).

15 64. The Shooter's father was prohibited from possessing a firearm at the time he
16 purchased and assembled the firearm used to shoot Mia.

17 65. Defendant Seller aided and abetted the possession of the unlawful firearm by the
18 Shooter's father by providing him with an unmarked, untraceable firearm kit, along with the tools
19 and instructions for its assembly.

20 66. Defendant Seller's aiding and abetting of the possession of an unlawful firearm by
21 the Shooter's father was a proximate cause of Mia's injuries.

22 **D. Creation of a Public Nuisance by Defendant Seller and Does One through**
23 **Fifty**

24 67. Defendant Seller and Does One through Fifty have created a public nuisance in
25 California by marketing and selling untraceable firearm kits without serial numbers and background
26 checks, endangering the general populace by allowing dangerous persons to procure weapons they
27 may otherwise be prevented from obtaining. Those persons have committed numerous acts of
28 violence around the state.

1 68. The nuisance is further exacerbated by the fact that the Defendants’ products are
2 intended to be untraceable, making it difficult for police to investigate crimes, and therefore making
3 the firearms especially attractive to criminals and other dangerous persons.

4 69. Plaintiff has suffered a special injury beyond the impairment to the general public
5 caused by Defendants’ nuisance, as a direct victim of its reckless behavior. Defendants’ actions
6 resulted in a gunshot wound to Mia’s stomach and lifelong physical and emotional injuries.

7 70. The nuisance is ongoing and continuous, as Defendant Seller and Does One through
8 Fifty continue to sell ghost gun kits and components on their websites. By this lawsuit, Plaintiff
9 seeks damages for her physical and emotional injuries, as well as an order enjoining Defendant
10 Seller and Does One through Fifty from continuing to propagate this public nuisance and abating
11 the damage they have caused.

12 **E. Defendant Matsura-Berhow’s Negligence**

13 71. At all relevant times, Defendant Matsura-Berhow was subject to the general duty
14 imposed on all persons and entities to act reasonably to avoid exposing others to reasonably
15 foreseeable risks of injury.

16 72. At all relevant times, the Shooter was a minor child who lived in the custody and
17 care of his mother Defendant Matsura-Berhow. As the Shooter’s mother, she was legally responsible
18 for him at all relevant times.

19 73. On November 14, 2019, after the shooting at Saugus High School, investigators
20 executed a search warrant at the home of Defendant Matsura-Berhow—where the shooter resided
21 with her at all relevant times.

22 74. In the garage of their home, police discovered an unlocked make-shift gun safe with
23 a semi-automatic AR-10 ghost gun rifle inside. They also discovered gun powder and ammunition
24 components in the garage.

25 75. In the shooter’s bedroom drawer, police discovered a single-shot Colt Derringer.

26 76. Under the bed in the Shooter’s bedroom, police discovered two handheld gun cases.
27 One case contained an unloaded semi-automatic 1911 style ghost gun. The other case contained
28 only a .45 caliber cartridge without a firing pin.

1 77. All of the firearms recovered during the November 14, 2019 search—the AR-style
2 ghost gun rifles, the 1911-Style Ghost Gun, and the single shot Derringer were unsecured when
3 discovered by police.

4 78. In the living room investigators discovered eleven pages of instructions with the
5 “exact dimensions for drilling and assembling a frame” to assemble a semi-automatic ghost gun.

6 79. In addition to the firearms, police also discovered multiple BB rifles and BB pistols
7 in various locations in the home of Defendant Matura-Berhow and the Shooter. Police also
8 discovered numerous knives—including a butcher knife, a machete, and a dagger in a cardboard
9 box in the Master bedroom.

10 80. Investigators also discovered the Shooter’s writings which indicated that he was
11 cutting himself, that he believed he was psychotic and sadistic, and that he was going live in
12 Germany but that before leaving he was “going to make my mark in the USA. There’s something
13 definitely wrong with me.”

14 81. Defendant Matura-Berhow’s son, the Shooter, was prohibited from owning or
15 possessing firearms because of his age.

16 82. Defendant Matura-Berhow’s failure to exercise reasonable care in possessing and/or
17 firearms in her how, particularly in light of the presence of her teenage son, was a direct and
18 proximate cause of Plaintiff Mia Tretta’s injuries.

19 **CAUSES OF ACTION**

20 **COUNT I – NEGLIGENCE**

21 *(Against Defendant Seller and Does One through Fifty)*

22 83. Plaintiff incorporates and realleges the above paragraphs as if stated fully herein.

23 84. At all relevant times, Defendant Seller and Does One through Fifty were subject to
24 the general duty imposed on all persons and entities to act reasonably not to expose others to
25 reasonably foreseeable risks of injury.

26 85. In fact, Defendant Seller and Does One through Fifty, as sellers of ghost gun kits, are
27 subject to the highest duty of care because of the danger that their products can cause.

28 86. Defendant Seller and Does One through Fifty had a duty to exercise reasonable care

1 in marketing, distributing and selling ghost gun kits and components and to refrain from engaging
2 in any activity creating reasonably foreseeable risks of injury to others. A breach of such a duty
3 constitutes negligence.

4 87. At all relevant times, Defendant Seller illegally, negligently, recklessly, and with
5 malice and oppression, sold a ghost gun kit either to the minor Shooter directly, or to the Shooter's
6 father, Mark Berhow. Defendant Seller did so even though Defendant Seller knew or should have
7 known that the purchaser was unfit to possess firearms and legally prohibited from possessing
8 firearms, and that the purchaser was likely to use the resulting gun in a dangerous manner, or furnish
9 it to others who would use it in a dangerous manner.

10 88. At all relevant times, Defendant Seller and Does One through Fifty's negligent,
11 reckless, and malicious conduct included but was not limited to:

- 12 a. Willfully designing, constituting, packaging, marketing, advertising, and selling the
13 product in such a manner that it was at least as dangerous as a finished firearm, but
14 removing it from the legal protections, background checks, and serialization
15 requirements that are mandatory in the context of firearm sales, even though Defendant
16 Seller and Does One through Fifty knew that innocent members of the public would
17 likely be injured if they sold the product in this manner,
- 18 b. Willfully failing to take reasonable steps, or indeed any steps at all, to ensure that the
19 purchaser was not legally prohibited from purchasing or possessing a firearm, and/or
20 unfit to safely possess a firearm, even though Defendant Seller and Does One through
21 Fifty knew that innocent members of the public would likely be injured if they did not
22 take steps to perform reasonable steps to verify the fitness of purchasers,
- 23 c. Designing, constituting, packaging, marketing, advertising, and selling the product in
24 such a manner (i.e., as a ghost gun without a serial number or background check or
25 traceability by law enforcement) that it was likely to attract buyers unfit to own and
26 possess firearms, even though Defendant Seller and Does One through Fifty knew that
27 innocent members of the public would likely be injured if they kept enticing unfit persons
28 to buy dangerous instrumentalities,

1 89. Defendant Seller’s negligence was a direct and proximate cause of harm to Plaintiff,
2 by causing the Shooter to gain unlawful possession of a firearm, which he used to shoot Mia.

3 90. In addition, Defendant Seller and Does One through Fifty knowingly violated the
4 requirements of federal law, including violations of 18 U.S.C. § 922 and 26 U.S.C. § 5842, by
5 dealing in firearms with a license, and by selling firearms without serial numbers and without
6 conducting background checks; as well as California firearms laws, including violations of Cal.
7 Penal Code §§ 31900, *et seq.*, by causing to be manufactured unsafe handguns and aiding and
8 abetting the manufacture and possession of unsafe handguns; and aiding and abetting the unlawful
9 possession of firearms by prohibited persons, in violation of Cal. Welfare and Inst. Code § 8103 and
10 Cal. Penal Code § 31615, by selling, transferring and shipping a ghost gun kit to the Shooter or the
11 Shooter’s father.

12 91. The violations of law by Defendant Seller were a direct and proximate cause of the
13 injuries to Plaintiff. These laws are intended to protect public safety by preventing the sale of
14 firearms to minors and dangerous persons, and preventing the use of unsafe handguns in California.
15 Defendant Seller flouted those laws for profit, and in so doing, directly and proximately caused
16 injury to Plaintiff, who as a shooting victim is within the class of persons these laws were designed
17 to protect, and suffered the type of harm the laws are designed to protect against.

18 92. As a direct and proximate result of the aforementioned conduct and breach of duty,
19 Plaintiff Mia Tretta has sustained and will sustain physical pain, mental suffering, loss of enjoyment
20 of life, anxiety, and emotional distress.

21 93. As a direct and proximate result of the aforementioned conduct and breach of duty,
22 Plaintiff Mia Tretta has incurred economic damages, including lost future income, lost earning
23 capacity, and past and future medical expenses and related expenses.

24 94. Accordingly, Plaintiff Mia Tretta is entitled to recovery against Defendant Seller in
25 an amount to be determined at trial.

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COUNT II – NEGLIGENT ENTRUSTMENT
(Against Defendant Seller and Does One through Fifty)

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3 95. Plaintiff incorporates and re-alleges the above paragraphs as if stated fully herein.

4 96. Defendant Seller and Does One through Fifty, as sellers of dangerous
5 instrumentalities, including ghost gun "kits," had a duty not to sell or otherwise entrust those
6 instrumentalities to persons they knew or should have known were unfit or incompetent to possess
7 them.

8 97. Defendant Seller and Does One through Fifty sell nearly complete lethal weapons
9 that are unserialized (and therefore explicitly designed to be untraceable) and are commonly known
10 to be purchased in order to evade federal and state requirements of a background check. Defendant
11 Seller and Does One through Fifty knew or reasonably should have known that there was a high
12 degree of likelihood that the purchaser was prohibited from owning such a weapon, and therefore
13 should not have provided the purchaser with all of the tools, components and instructions to
14 construct a firearm.

15 98. Defendant Seller negligently, illegally, recklessly, willfully, maliciously, and
16 oppressively transferred the subject ghost gun kit to the Shooter or Mark Berhow – both prohibited
17 from purchasing or possessing firearms – despite the fact that Defendant Seller, at the time of the
18 transfer, knew or should have known that the purchaser was unfit and incompetent to purchase and
19 possess firearms, and despite the fact that Defendant Seller, at the time of the transfer, knew that
20 repeatedly selling ghost guns in this manner was likely to eventually result in serious injury or death
21 to innocent members of the public.

22 99. Defendant's negligent entrustment of the firearm to the Shooter or the Shooter's
23 father was a direct and proximate cause of Mia's injuries.

24 100. As a direct and proximate result of the aforementioned conduct and breach of duty,
25 Plaintiff claims those damages set forth hereinabove.

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COUNT III- PUBLIC NUISANCE
(Against Defendant Seller and Does One through Fifty)

101. Plaintiff incorporates and re-alleges the above paragraphs as if stated fully herein.

102. Defendant Seller and Does One through Fifty created a public nuisance by marketing, selling and distributing ghost gun kits and/or components to California residents without serial numbers, without background checks, and without taking any reasonable steps to ensure that the purchasers were not prohibited from purchasing or possessing firearms, despite knowing that he was distributing ghost gun kits to dangerous persons who are prohibited from purchasing or possessing firearms under federal and state law. Defendant Seller and Does One through Fifty’s actions have created a significant threat to the public right of health and safety in public spaces, including schools. Defendant Seller’s and Does One through Fifty’s ongoing business practices have resulted in dangerous conditions that threaten adults and children across the State of California.

103. In one instance, the nuisance created by Defendant Seller resulted in a special injury to Plaintiff, who was shot by one of Defendant Seller’s firearms at her high school. Defendant Seller’s actions resulted in the Shooter possessing a “ghost gun,” providing him the opportunity and equipment necessary to harm Plaintiff.

104. As a result of the actions, inactions and omissions of Defendant Seller, Plaintiff has suffered and will continue to suffer general, compensatory and consequential damages to her person. Plaintiff requests that a mandatory and/or prohibitory injunction be issued requiring the Defendants Seller and Does One through Fifty to enjoin and abate the nuisance by ceasing all sale of ghost gun frames, receivers and/or kits without taking reasonable steps to ensure that purchasers are not prohibited from possessing firearms and other requirements set forth by state and federal law.

COUNT IV- NEGLIGENCE
(Against Defendant Matsura-Berhow)

105. Plaintiff incorporates and re-alleges the above paragraphs as if stated fully herein.

106. The Shooter lived with his mother, Defendant Matsura-Berhow at their shared home in Santa Clarita, California.

107. Defendant Matsura-Berhow was legally responsible for the Shooter at the time of the

1 Saugus High School shooting.

2 108. Defendant Mami Matsura-Berhow was subject to the general duty imposed on all
3 persons and entities not to expose others to reasonably foreseeable risks of injury.

4 109. Defendant Matsura-Berhow had a duty to exercise reasonable care in possessing
5 and/or storing firearms in her home, particularly in light of the presence of a teenage son.

6 110. Defendant Matsura-Berhow, through her acts and omissions, negligently allowed her
7 minor son access to deadly firearms by, among other things, failing to secure the firearms in their
8 shared home.

9 111. Failing to secure their firearms led to the reasonably foreseeable result that her
10 teenage son gained access to a firearm, resulting in the deadly Saugus High School shooting that
11 left two students dead and Mia critically wounded.

12 112. Defendant Matsura-Berhow further breached this duty by failing to prevent her
13 teenage son from going to school while carrying a loaded firearm, and indeed, dropping him off at
14 school with a loaded firearm.

15 113. Each of the above facts or omissions by Defendant Matsura-Berhow constitutes
16 negligence, and that negligence was a proximate cause of the injuries suffered by Mia.

17 114. As a direct and proximate result of the aforementioned conduct and breach of duty,
18 Plaintiff claims those compensatory damages set forth hereinabove.

19 REQUESTED RELIEF

20 WHEREFORE, the Plaintiff respectfully requests that this Court enter judgment in her favor
21 and that the Court award the following relief:

- 22 a) Noneconomic damages according to proof at trial;
- 23 b) Economic damages according to proof at trial;
- 24 c) Pre-judgment and post-judgment interest in accordance with California law;
- 25 d) For punitive and exemplary damages in an amount sufficient to punish and deter
26 Defendants' conduct;
- 27 e) For costs of suit and attorneys' fees to the fullest extent permitted by law;

28

- 1 f) Injunctive relief against Defendant Seller and Does One through Fifty, requiring
2 them to cease the public nuisance they have created, as alleged in Count III above,
3 by:
4 a. Ceasing sale of ghost gun frames, receiver or kits unless and until they are in
5 compliance with CUHA and other state and federal laws;
6
7 g) Grant such other relief as the Court may deem just and proper.
8

9 **PLEASE TAKE NOTICE THAT PLAINTIFF DEMANDS A TRIAL BY JURY.**

10 Dated: December 21, 2020

11 Respectfully Submitted,

12 **EVERYTOWN LAW**
13 Alla Lefkowitz*
14 Len Hong Kamdang*
15 Mark Weiner*
16 450 Lexington Ave.
17 P.O Box # 4184
18 New York, NY 10017
19 (mailing address)
20 Telephone: (646) 324-8365
21 Facsimile: (917) 410-6932
22 alefkowitz@everytown.org
23 lkamdang@everytown.org
24 mweiner@everytown.org

25 *Pro hac vice application forthcoming

26 **WALKUP, MELODIA, KELLY &**
27 **SCHOENBERGER**
28 Richard Schoenberger
(State Bar No. 122190)
rschoenberger@walkuplawoffice.com
Spencer Pahlke
(State Bar No. 250914)
spahlke@walkuplawoffice.com
Sara Peters
(State Bar No. 260610)
speters@walkuplawoffice.com
650 California Street, 26th Floor
San Francisco, CA 94108
Telephone: (415) 981-7210
Facsimile: (415) 391-6965

Attorneys for Plaintiffs