

1 CASE NO.: 21-CV-00690

2 DEPT. NO.: 1

3 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

4 **IN AND FOR THE COUNTY OF LYONE**

5 POLYMER80, INC.

6 Plaintiff,

7 vs.

8 STEPHEN SISOLAK, Governor of
9 Nevada, AARON FORD, Attorney General
10 of Nevada, GEORGE TOGLIATTI,
11 Director of the Nevada Department of
12 Public Safety, MINDY MCKAY,
13 Administrator of the Records,
14 Communications, and Compliance Division
15 of the Nevada Department of Public
16 Safety,

17 Defendants.

Electronically Filed
Dec 30 2021 09:31 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

2021 DEC 20 AM 11:24
FILED
THIRD JUDICIAL DISTRICT COURT
CLERK OF SUPREME COURT
ELIZABETH A. BROWN
CLERK

14 **NOTICE OF APPEAL**

15 Notice is hereby given that Stephen Sisolak, Governor of Nevada, Aaron Ford,
16 Attorney General of Nevada, George Togliatti, Director of the Nevada Department of Public
17 Safety, Mindy McKay, Administrator of the Records, Communications, and Compliance
18 Division of the Nevada Department of Public Safety (collectively, the "State Defendants")
19 hereby appeal to the Supreme Court of Nevada from the November 23, 2021 oral order
20 granting Polymer80, Inc. summary judgment and the "Findings of Fact, Conclusions of
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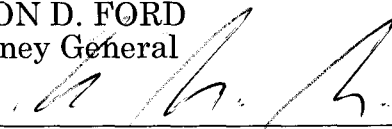
27 ...

28 ...

1 Law, and Order Granting Summary Judgment in Favor of Plaintiff, Polymer80, Inc.”
2 entered December 10, 2021 and notice of entry of which was served on December 13, 2021.

3 DATED this 16th day of December 2021.

4 AARON D. FORD
Attorney General


5 By: 
6 Steve Shevorski (Bar No. 8256)
7 Chief Litigation Counsel
8 555 E. Washington Ave., Ste. 3900
9 Las Vegas, NV 89101
10 (702) 486-3420 (phone)
11 (702) 486-3768 (facsimile)
12 sshevorski@ag.nv.gov

AFFIRMATION

Pursuant to NRS 239B.030(4), the undersigned does hereby affirm that the preceding document does not contain the Social Security number of any person.

DATED this 16th day of December, 2021.

AARON FORD
Attorney General

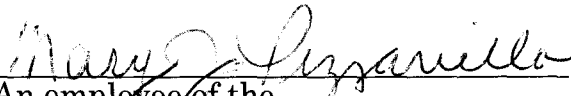
By: 
Steve Shevorski (Bar No. 8256)
Chief Litigation Counsel
Office of the Nevada Attorney General

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1 CERTIFICATE OF SERVICE

2 I hereby certify that I am an employee of the State of Nevada, Office of the Attorney
3 General, and that on the 16th day of December, 2021, I served the foregoing document, by
4 causing a true and correct copy thereof to be served via U.S. Mail, addressed to the
5 following:

6 Brad M. Johnston
7 Simons Hall Johnston PC
8 22 State Route 208
9 Yerington, NV 89447
10 *Attorneys for Polymer80, Inc.*

11
12 
13 An employee of the
14 Office of the Attorney General

1 CASE NO.: 21-CV-00690

2 DEPT. NO.: 1

3

4 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
5 **IN AND FOR THE COUNTY OF LYON**

6 POLYMER80, INC.

7 Plaintiff,

8 vs.

9 STEPHEN SISOLAK, Governor of Nevada,
10 AARON FORD, Attorney General of
11 Nevada, GEORGE TOGLIATTI, Director
12 of the Nevada Department of Public
13 Safety, MINDY MCKAY, Administrator of
14 the Records, Communications, and
15 Compliance Division of the Nevada
16 Department of Public Safety,

17 Defendants.

Brandon Baptist
2021 DEC 20 AM 11:24
FILED
THIRD JUDICIAL DISTRICT
COUNTY OF LYON
NEVADA

18 **CASE APPEAL STATEMENT**

19 Defendants Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of
20 Nevada, George Togliatti, Director of the Nevada Department of Public Safety, Mindy
21 McKay, Administrator of the Records, Communications, and Compliance Division of the
22 Nevada Department of Public Safety (collectively, the "State Defendants") hereby file their
23 Case Appeal Statement pursuant to Nevada Rule of Appellate Procedure 3(f).

24 **1. Name of appellant filing this case appeal statement:**

25 Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of Nevada,
26 George Togliatti, Director of the Nevada Department of Public Safety, Mindy McKay,
27 Administrator of the Records, Communications, and Compliance Division of the Nevada
28 Department of Public Safety.

2. Identify the judge issuing the decision, judgment, or order appealed from:

Honorable John P. Schlegelmilch.

...

...

1 **3. Identify each appellant and the name and counsel for each appellant:**

2 **(a) Name of appellants**

3 Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of Nevada,
4 George Togliatti, Director of the Nevada Department of Public Safety, Mindy McKay,
5 Administrator of the Records, Communications, and Compliance Division of the Nevada
6 Department of Public Safety.

7 **(b) Name and address of appellate counsel**

8 Steve Shevorski, Esq.
9 Nevada Bar No. 8256
10 Chief Litigation Counsel
11 Office of the Nevada Attorney General
12 555 E. Washington Ave., Ste. 3900
Las Vegas, NV 89101
(702) 486-3420 (phone)
(702) 486-3768 (facsimile)
sshevorski@ag.nv.gov

13 **4. Identify each respondent and the name and address of appellate counsel, if**
14 **known, for each respondent (if the name of a respondent's appellate**
15 **counsel is unknown, indicate as much and provide the name and address**
16 **of that respondent's trial counsel):**

17 **(a) Name of respondent**

18 Polymer80, Inc.

19 **(b) Name and address of trial counsel**

20 Respondent's appellate counsel is not known. Polymer80, Inc. was represented by
21 the following trial counsel:

22 Brad M. Johnston, Esq.
23 Nevada Bar No. 8515
24 Simons Hall Johnston PC
32 State Route 208
Yerington, NV 89447
(775) 463-9500 (phone)
bjohnston@shjnevada.com

25 ...

26 ...

27 ...

1 5. **Indicate whether any attorney identified above in response to question 3**
2 **or 4 is not licensed to practice law in Nevada and, if so, whether the district**
3 **court granted that attorney permission to appear under SCR 42 (attach a**
4 **copy of any district court order granting such permission):**

5 All attorneys identified above in response to questions 3 and 4 are licensed to
6 practice law in Nevada.

7 6. **Indicate whether appellants were represented by appointed or retained**
8 **counsel in the district court.**

9 Appellants were represented by retained counsel before the district court.

10 7. **Indicate whether appellants were represented by appointed or retained**
11 **counsel on appeal.**

12 Appellants are represented by retained counsel on appeal.

13 8. **Indicate whether appellant was granted leave to proceed in forma**
14 **pauperis, and the date of entry of the district court order granting such**
15 **leave:**

16 None of these appellants sought or were granted leave to proceed in forma pauperis.

17 9. **Indicate the date the proceedings commenced in the district court (e.g.,**
18 **date complaint, indictment, information, or petition was filed):**

19 On June 22, 2021, the complaint was filed in the district court.

20 10. **Provide a brief description of the nature of the action and result in the**
21 **district court, including the type of judgment or order being appealed and**
22 **the relief granted by the district court:**

23 Plaintiff is a designer, developer, and seller of aftermarket gun accessories, including
24 unfinished lower receivers or frames that can be bought as kits and assembled at home.
25 Plaintiff brought this action to challenge Assembly Bill 286 (AB 286) of the 2021 legislative
26 session, which was passed to attempt reducing the spread of ghost guns by applying serial
27 number requirements to an "unfinished frame or receiver" with criminal penalties.

28 In its complaint and its motion for preliminary injunction, Plaintiff contended that
AB 286 was unconstitutionally vague. Following briefing and argument, the district court
entered an order granting preliminary injunction against Appellants with respect to
enforcing Section 3.5 of AB 286, concluding that it was unconstitutionally vague as a
criminal statute. Further, the district court concluded that Plaintiff sufficiently

1 demonstrated irreparable harm to warrant a preliminary injunction based on the inability
2 to conduct business without the threat of criminal prosecution. Finally, the district court
3 concluded that the public interests and the balance of hardships weigh in favor of a
4 preliminary injunction due to the ambiguity in AB 286.

5 The district court denied Plaintiff's motion for preliminary injunction seeking to
6 enjoin other aspects of AB 286. Pursuant to NRAP 3A(b)(3), Appellants appealed the
7 district court's July 16 order as to Section 3.5 of Assembly Bill 286.

8 Following expedited discovery and briefing on cross motions for summary judgment,
9 the district court issued an oral order granting summary judgment against Defendants,
10 including a permanent injunction, against enforcement of Section 3 and 3.5 of Assembly
11 Bill 286, after oral argument. The district court concluded that those sections of Assembly
12 Bill 286 were unconstitutionally vague, and that Plaintiff had demonstrated the other
13 requirements for a permanent injunction. The written "Findings of Fact, Conclusions of
14 Law, and Order Granting Summary Judgment in Favor of Plaintiff, Polymer80, Inc." were
15 entered December 10, 2021 and notice of entry of which was served on December 13, 2021.

16 **11. Indicate whether the case has previously been the subject of an appeal or**
17 **original writ proceeding in the Supreme Court and, if so, the caption and**
18 **the Supreme Court docket number of the prior proceeding:**

19 On July 16, 2021, the district court entered a preliminary injunction against Section
20 3.5 of Assembly Bill 286. Defendants timely appealed the granting of a preliminary
21 injunction on August 18, 2021. The caption for the earlier appeal was as follows:

22 *Sisolak et al. v. Polymer80, Inc.*, Case No. 83385

23 Based on the permanent injunction and judgment entered by the district court on
24 November 23, 2021, Defendants' appeal of the preliminary injunction is now moot.

25 **12. Indicate whether this appeal involves child custody or visitation:**

26 This appeal does not involve child custody or visitation.

27 ...

28 ...

...

1 13. If this is a civil case, indicate whether this appeal involves the possibility
2 of settlement.

3 This appeal does not involve the possibility of settlement.

4 DATED this 16th day of December 2021.

5 AARON D. FORD
6 Attorney General

7 By: 


8 Steve Shevorski (Bar No. 8256)
9 Chief Litigation Counsel
10 Office of the Nevada Attorney General
11 555 E. Washington Ave., Ste. 3900
12 Las Vegas, NV 89101
13 (702) 486-3420 (phone)
14 sshevorski@ag.nv.gov
15 *Attorneys for Defendants*

1 **AFFIRMATION**

2 Pursuant to NRS 239B.030(4), the undersigned does hereby affirm that the
3 preceding document does not contain the Social Security number of any person.

4 DATED this 16th day of December, 2021.

5 AARON D. FORD
6 Attorney General

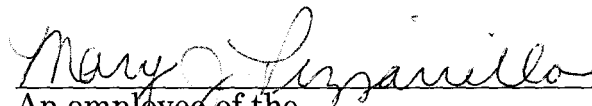
7 By: 
8 Steve Shevorski (Bar No. 8256)
9 Chief Litigation Counsel
10 *Attorneys for Defendants*

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1 **CERTIFICATE OF SERVICE**

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3 General, and that on the 16th day of December, 2021, I served the foregoing document, by
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5 following:

6 Brad M. Johnston
7 Simons Hall Johnston PC
8 22 State Route 208
9 Yerington, NV 89447
10 *Attorneys for Polymer80, Inc.*

11 
12 An employee of the
13 Office of the Attorney General

Case Summary

Aaron D. Ford Attorney General, POLYMER80, INC., STEPHEN SISOLAK, GOVERNOR OF NEVADA, GEORGE TOGLIATTI, DIRECTOR OF THE NEVADA DEPARTMENT OF PUBLIC SAFETY, MINDY MCKAY, ADMINISTRATOR OF THE RECORDS, COMMUNICATION, AND COMPLIANCE DIVISION OF THE NEVADA DEP

Case Number: 21-CV-00690

Agency: Third Judicial District Court

Type: Other Civil Matters

Received Date: 6/22/2021

Status: Closed

Status Date: 12/10/2021

Involvements

Primary Involvements

STEPHEN SISOLAK, GOVERNOR OF NEVADA Defendant
Ford, Aaron D. Attorney General - AFORD Defendant
GEORGE TOGLIATTI, DIRECTOR OF THE NEVADA
DEPARTMENT OF PUBLIC SAFETY Defendant
MINDY MCKAY, ADMINISTRATOR OF THE RECORDS,
COMMUNICATION, AND COMPLIANCE DIVISION OF THE
NEVADA DEPARTMENT OF PUBLIC SAFETY Defendant
POLYMER80, INC. Plaintiff

Other Involvements

Doerr, Mark T. Esq. Plaintiff's Attorney
Zunino, Gregory L. Deputy Solicitor General Defendant's
Attorney
McGuire, James J. Esq. Plaintiff's Attorney
Johnston, Brad M. Esq. Plaintiff's Attorney
Third Judicial District Court (21-CV-00690)
Schlegelmilch, John P. - JPS Dept I - TJDC

2. NRCP ~ RELATED PARTY

Lead/Active: False

3. NRCP ~ RELATED PARTY

Lead/Active: False

4. NRCP ~ RELATED PARTY

Lead/Active: False

5. NRCP ~ RELATED PARTY

Lead/Active: False

Other Civil Matters

1. NRCP 3 ~ COMPLAINT

Lead/Active: True

Case Status History

6/22/2021 3:33:00 PM | Open
12/10/2021 3:33:00 PM | Closed

Documents

6/22/2021 Verified Complaint.pdf - Filed
6/22/2021 Summons- Issued- Aaron Ford.pdf - Issued
6/22/2021 Summons- Issued- George Togliatti.pdf - Issued
6/22/2021 Summons- Issued- Mindy McKay.pdf - Issued
6/22/2021 Summons- Issued- Steve Sisolak.pdf - Issued
6/22/2021 Civil Cover Sheet.pdf - Filed
6/24/2021 Plaintiff's Rule 7.1 Disclosure Statement .pdf - Filed
6/25/2021 Motion for Temporary Restraining Order and Preliminary Injunction.pdf - Filed
6/25/2021 Notice of Entry of Order (Order filed 6-25-21).pdf - Filed
6/25/2021 Order Shortening Time.pdf - Filed
6/25/2021 Emergency Application of Polymer80 Inc. for Order to Show Cause or, Alternatively, .pdf - Filed
Notes: Its Motion for Order Shortening Time
6/30/2021 Motion to Associate Counsel- James J. McGuire.pdf - Filed
6/30/2021 Proof of Service (Summons and Complaint).pdf - Filed
7/2/2021 Order Granting Motion to Associate Counsel- James J. McGuire.pdf - Filed
7/6/2021 Defendants' Opposition to Application for Temporary Restraining Order.pdf - Filed
7/12/2021 Reply Memorandum of Points and Authorities in Support of Motion for Temp Restraining Order.pdf - Filed
7/13/2021 Motion to Associate Counsel- Mark T. Doerr.pdf - Filed
7/14/2021 Order Granting Motion to Associate Counsel- Mark T. Doerr.pdf - Filed
7/15/2021 Security Bond Check.pdf - For Court Use Only
7/15/2021 Notice of Posting Security.pdf - Filed
7/15/2021 Case Management and Trial Scheduling Order.pdf - Filed
7/16/2021 Notice of Entry of Order.pdf - Filed
7/16/2021 Order Granting Preliminary Injunction.pdf - Filed
7/23/2021 Transcript of Proceedings Motion for Temporary Restraining Order July 14, 2021.pdf - Filed
8/16/2021 Appellant's Case Appeal Statement.pdf - Filed
8/16/2021 Notice of Appeal.pdf - Filed
8/18/2021 Defendants' Motion for Stay Pending Appeal.pdf - Filed
8/20/2021 Receipt for Documents S.C..pdf - Filed
8/30/2021 Memorandum of Points and Authorities in Opposition to Motion for Stay Pending Appeal.pdf - Filed
9/7/2021 Defendants' Reply in Support of Motion for Stay Pending Appeal.pdf - Filed
9/16/2021 Request to Submit Defendant's Motion for Stay Pending Appeal.pdf - Filed
9/16/2021 Proposed Order Granting Stay Pending Appeal.pdf - Submitted
9/21/2021 Setting Memo (10-6-21).pdf - Filed
9/27/2021 Defendants Answer to Plaintiffs Complaint.pdf - Filed
10/12/2021 Subpoenaed Nonparty Nevada State Assemblywoman Sandra Jauregui's Motion to Quash Subpoena.pdf - Filed
Notes: and for Protective Order
10/19/2021 Opposition of Polymer80 Inc to Motion of Assemblywoman Jauregui to Quash Subpoena.pdf - Filed
10/19/2021 Stip & Order for Briefing and Hearing.pdf - Filed
10/22/2021 Zoom Link -10-25-2021.pdf - For Court Use Only
10/22/2021 COPY- Subpoenaed Nonparty Nevada State Assemblywoman Sandra Jauregui's Reply in Support.pdf - For Court Use Only
Notes: of Motion to Quash Subpoena and for Protective Order
10/25/2021 Letter to Court- Discovery Issues- Dated 10-25-21.pdf - Filed
10/25/2021 Subpoenaed Assemblywoman Jauregui's Reply in Support of Motion to Quash Subpoena and for Protective Order.pdf - Filed
11/1/2021 Transcript Status Hearing 10-25-21.pdf - Filed
11/5/2021 Plaintiffs Pretrial Disclosures.pdf - Filed
11/8/2021 Motion of Polymer80, Inc. for Summary Judgment (Exhibit D on FlashDrive).pdf - Filed
11/8/2021 Defendant's Motion for Summary Judgment.pdf - Filed
11/8/2021 Defendant's Pretrial Disclosure.pdf - Filed
11/8/2021 Polymer80 Motion for Summary Judgment Exhibit D Flash Drive\Legislative History of AB 286.pdf - Filed
11/9/2021 Order Denying Defendants' Motion for Stay Pending Appeal.pdf - Filed
11/18/2021 Zoom Link 11-23-2021.pdf - For Court Use Only

Case Summary

11/18/2021 Memorandum of Points and Authorities of Polymer80, Inc in Opposition to Defendants Motion for Summary.pdf - Filed

Notes: Judgement an in Further Support of its Motion for Summary Judgement

11/18/2021 Stip & Order for Briefing & Hearing on Motions for Summary Judgment.pdf - Filed

11/19/2021 Plaintiff's Objection to Defendants' Pretrial Disclosures.pdf - Filed

11/19/2021 Defendants' Opposition to Polymer80s Motion for Summary Judgment.pdf - Filed

11/22/2021 Order Granting Subpoenaed Nonparty Nevada State Assemblywoman Sandra Jauregui's Motion to Quash Subpoena.pdf - Filed

Notes: and for Protective Order

11/24/2021 Notice of Entry of Order Granting Sandra Jauregui's Motion to Quash.pdf - Filed

Notes: Subpoena and for Protective Order

12/10/2021 Findings of Fact, Conclusions of Law, & Order Granting Summary Jdgmnt.pdf - Filed

12/13/2021 Notice of Entry of Order-Summary Judgment.pdf - Filed

12/20/2021 Notice of Appeal (Order Filed 12-10-2021).pdf - Filed

12/20/2021 Case Appeal Statement.pdf - Filed

FILED

2021 DEC 10 AM 9:54

TANYA SCIBINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Kathy Thomas

1 Case No. 21-CV-00690

2 Dept. No. I

3 The undersigned affirms that this document
4 does not contain the social security number
5 of any individual.

6 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

7 **IN AND FOR THE COUNTY OF LYON**

8 POLYMER80, INC.,

9 Plaintiff,

10 vs.

11
12 STEPHEN SISOLAK, Governor of Nevada, AARON
13 FORD, Attorney General of Nevada, GEORGE
14 TOGLIATTI, Director of the Nevada Department
15 of Public Safety, MINDY MCKAY, Administrator
16 Division of the Nevada Department of Public
17 Safety,

18 Defendants.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING SUMMARY
JUDGMENT IN FAVOR OF
PLAINTIFF, POLYMER80, INC.**

18 This matter is before the Court upon the parties' competing Motions for Summary Judgment
19 both filed on November 8, 2021, and duly opposed by each party on November 18, 2021. The matter
20 was set for argument on November 23, 2021. Plaintiff was present and represented by Brad
21 Johnston, Esq., of Simons Hall Johnston PC (via Zoom) and James J. McGuire, Esq., (pro hac vice)
22 of Greenspoon Marder LLP, who was present in Court. The Defendants were represented by Craig
23 A. Newby, Esq., Deputy Solicitor General, who was present in Court.
24

25 This Court, having reviewed and considered the parties' respective motions and oppositions
26 for summary judgment, considered the exhibits thereto and arguments therein, conducted a hearing
27 upon those motions, and heard oral argument from counsel for Polymer80 and for Defendants, and
28

1 good cause appearing, makes the following FINDINGS OF FACT, CONCLUSIONS OF LAW,
2 AND ORDERS.

3
4 **I**

5 **PROCEDURAL HISTORY**

6 During the 81st legislative session, the Nevada Legislature passed Assembly Bill 286 (“AB
7 286”). AB 286 is -- “AN ACT relating to crimes; prohibiting persons from engaging in certain acts
8 relating to unfinished frames or receivers under certain circumstances; ... providing penalties; and
9 providing other matters properly relating thereto.” Nevada Governor, Stephen Sisolak, signed AB
10 286 into law on June 7, 2021.

11 On June 22, 2021, Plaintiff, Polymer80, Inc. (“Polymer80”), filed this lawsuit against
12 Defendants, Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of Nevada,
13 George Togliatti, Director of the Nevada Department of Public Safety, and Mindy McKay,
14 Administrator of the Records, Communications, and Compliance Division of the Nevada
15 Department of Public Safety (collectively referred to as “Defendants”), alleging that Sections 3 and
16 3.5 of AB 286 are unconstitutionally vague under the Due Process Clause of the Constitution of the
17 State of Nevada (“Nevada Constitution”). In its Verified Complaint, Polymer80 sought a
18 Declaration from this Court that Sections 3 and 3.5 of AB 286 violate the Nevada Constitution and
19 a Permanent Injunction barring enforcement of the new law.

20 On June 25, 2021, Polymer80 filed its *Motion for Temporary Restraining Order and*
21 *Preliminary Injunction*. After briefing and a hearing, this Court, on July 16, 2021, entered its *Order*
22 *Granting Preliminary Injunction*, preliminarily barring enforcement of Section 3.5 of AB 286.¹ That
23 Order is currently pending appeal at the Nevada Supreme Court.

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¹ At that time, this Court declined to enter a Preliminary Injunction as to the enforcement of AB 286
Section 3, because that portion of the new statute would not go into effect until January 1, 2022.

1 Thereafter, the Court held a Case Management and Scheduling Conference on July 14, 2021,
2 that resulted in a July 15, 2021, *Case Management and Trial Scheduling Order* setting an expedited
3 trial date of November 30, 2021. That Order also provided that the parties could engage in discovery
4 through November 1, 2021, and fixed November 8, 2021, as the deadline for filing dispositive
5 motions. By so ruling, this Court wanted to, and did, afford the parties the opportunity to develop
6 the evidentiary record to be presented upon motions for summary judgment and/or at trial.

7 In the ensuing months, the parties proceeded with discovery. Both Polymer80 and
8 Defendants timely filed Motions for Summary Judgment on November 8, 2021.² Pursuant to the
9 parties' Stipulation, this Court directed that they file their oppositions to the other side's summary
10 judgment motion on November 18, 2021, dispense with reply briefs, and proceed to a full hearing
11 on November 23, 2021. That hearing was held as scheduled and the Court heard substantial
12 argument from the parties. Notably, both parties agreed at that hearing that this Court could decide
13 this case upon the record before it at that point, and that a trial was unnecessary. At the conclusion
14 of the hearing, the Court rendered an oral ruling granting Polymer80 summary judgment. This Order
15 follows and memorializes that ruling.

16 Accordingly,

17 IT IS HEREBY ORDERED that the *Motion of Polymer80, Inc., for Summary Judgment* is
18 GRANTED, and that *Defendants' Motion for Summary Judgment* is DENIED, for the reasons set
19 forth herein and on the record at the November 23, 2021, hearing.
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23 ² Before the parties filed their competing Motions for Summary Judgment, Defendants filed an
24 appeal from this Court's *Order Granting Preliminary Injunction*. Thereafter, Defendants filed a
25 Motion to Stay this case in this Court, arguing, among other things, that this matter presented a pure
26 question of law that would be resolved upon their then-pending appeal. This Court denied
27 Defendants stay, largely because the issue on appeal was not the ultimate question of whether or not
28 AB 286 was and is unconstitutionally vague but whether or not this Court had abused its discretion
in granting interim relief. Moreover, a stay would have only delayed a ruling on the constitutionality
of AB 286, which would not have been in the best interests of either Plaintiff or Defendants.

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II

CONTESTED PROVISIONS OF AB 286

The 81st Nevada Legislature amended Chapter 202 of the Nevada Revised Statutes by adding, among others, the following provisions, which are the subject of this proceeding.

First, Section 3 of AB 286, effective as of January 1, 2022, provides as follows:

1. A person shall not possess, purchase, transport or receive an unfinished frame or receiver unless:

(a) The person is a firearms importer or manufacturer; or

(b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by a firearms importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

2. A person who violates this section:

(a) For the first offense, is guilty of a gross misdemeanor;

and

(b) For the second or any subsequent offense is guilty of a category D felony and shall be punished as provided in NRS 193.130.³

Plainly, this provision makes it a crime to “possess, purchase, transport or receive an unfinished frame or receiver” in the State of Nevada.

Second, Section 3.5 of AB 286, which became effective on June 7, 2021, provides as follows:

1. A person shall not sell, offer to sell or transfer an unfinished frame or receiver unless:

(a) The person is:

(1) A firearms importer or manufacturer; and

(2) The recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or

(b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

27
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³ NRS 193.130 provides that a category D felony is punishable by 1-4 years in Nevada State Prison and a fine of up to \$5,000.00.

1 summary judgment being entered in the moving party’s favor.” *Wood v. Safeway, Inc.*, 121 Nev.
2 724, 732 (2005) (quotations omitted). “The nonmoving party must, by affidavit or otherwise, set
3 forth specific facts demonstrating the existence of a genuine issue for trial or have summary
4 judgment entered against him.” *Id.* And, the party opposing summary judgment cannot build a case
5 on the “gossamer threads of whimsy, speculation, and conjecture.” *Id.* (quoting *Bulbman, Inc. v.*
6 *Nevada Bell*, 108 Nev. 105, 110 (1992)). Critically, the Nevada Supreme Court, as the parties have
7 acknowledged, has held that summary judgment is appropriate with respect to, as here, a facial Due
8 Process challenge on vagueness grounds to the constitutionality of a criminal statute. *See Flamingo*
9 *Paradise Gaming, LLC v. Chanos*, 125 Nev. 502, 508-09 (2009). As explained below, there are no
10 “genuine issues of material fact” precluding summary judgment, and this Court may properly resolve
11 this action on summary judgment upon the record before it.

12 IV

13 FINDINGS OF FACT AND CONCLUSIONS OF LAW

14 Polymer80 is a Nevada corporation headquartered in Dayton, Nevada, within Lyon County.
15 It manufactures, designs, and distributes gun-related products, components, and after-market
16 accessories. The legislative history reveals that AB 286 has targeted, at least partially, certain of
17 Polymer80’s business products. Defendants have also admitted as much in their Answer and in their
18 moving papers. As set forth in the testimony of Assemblywoman Sandra Jauregui:

19 . . . a Nevada based company, Polmer80, Inc., [is] one of the nation’s
20 largest manufacturers of ghost guns.

21 Minutes, Assembly Committee on Judiciary, p.6 (March 17, 2021). Assemblyman Wheeler stated
22 therein:

23 The kit guns you called ghost guns are used by a lot of hobbyists.
24 Under federal law, those are quite legal, so outlawing them in Nevada,
25 as this bill tries to do, basically puts a company [Polmer80] in my
26 district out of business. . . .
27 We are going to drive a company in my district out of business, but
28 people can still buy them in Kentucky. . .

1 Minutes, Assembly Committee on Judiciary, p.13-14 (March 17, 2021).⁵

2 **A. STANDING OF POLMER80**

3 In Defendants' Answer and at the Motion for Preliminary Injunction hearing, the State of
4 Nevada contested Polymer80's standing to contest the constitutional validity of AB 286. The
5 Defendants' have not argued a lack of standing on summary judgment. However, Polymer80 asserts
6 in their Motion that they indeed have standing.

7 NRS 30.040 provides, in pertinent part:

8 **NRS 30.040. Questions of construction or validity of . . . statutes.**

9 1. Any person . . . whose rights, status or other legal relations
10 are affected by a statute . . . may have determined any question of
11 construction or validity arising under the . . . statute . . . and obtain a
12 declaration of rights, status or other legal relations thereunder.

12 NRS 30.040(1). In Nevada, the issue of Standing is a question of law. *Arguello v. Sunset Station,*
13 *Inc.*, 127 Nev. 365, 368 (2011). As explained recently by the Nevada Supreme Court:

14 The question of standing concerns whether the party seeking relief has
15 a sufficient interest in the litigation. The primary purpose of this
16 standing inquiry is to ensure the litigant will vigorously and
17 effectively present his or her case against an adverse party. Thus, a
18 requirement of standing is that the litigant personally suffer injury that
19 can be fairly traced to the allegedly unconstitutional statute and which
20 would be redressed by invalidating the statute. A general interest in
21 the matter is normally insufficient: a party must show a personal
22 injury.

20 *Flor Morency v Nevada Department of Education*, 137 Nev. Adv. Op. 63, p. 7, 496 P.3d 584 (Oct.
21 7, 2021), (Citations Omitted).

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27 ⁵ This Court notes that there are multiple references to Polmer80 in the legislative history of AB 286
28 all indicating the negative impact of the bill on their ability to conduct business in the State of
Nevada.

1 This Court finds that Polymer80 has standing to mount a facial vagueness challenge to the
2 constitutionality of AB 286. Like the Plaintiffs in *Flamingo Paradise Gaming, LLC v. Chanos*, 125
3 Nev. 502, 508-09 (2009), Polymer80 could be subject to criminal prosecution stemming from its
4 ongoing conduct. Polymer80’s facial challenge to AB 286 is ripe for this Court’s adjudication as
5 Section 3.5 of AB 286 took effect earlier this year upon approval by the Governor and Section 3 of
6 AB 286 takes effect January 1, 2022. Accordingly, it is ripe for this Court to determine whether or
7 not both of those Sections of AB 286 are unconstitutionally vague under the Due Process Clause of
8 the Nevada Constitution.
9

10 Polymer80 satisfies the requirement to show that they would “personally suffer injury that
11 can fairly be traced to the allegedly unconstitutional statute” by facing the prospect of felony
12 criminal prosecution each time they produce a product which allegedly falls under the purview of
13 the statute. Further, Polymer80 would suffer significant economic loss as set forth in the Deposition
14 testimony submitted, and uncontested by the Defendants. This, combined with the legislative history
15 showing that the thrust of the bill was to put Polymer80 out of business, clearly establishes that,
16 unlike any other potential litigant, Polymer80 will vigorously and effectively present the case for
17 facial invalidity of the statute – which is Polymer80’s only true redress.
18

19 This Court determines that Polymer80 will suffer irreparable harm in the absence of
20 declaratory and/or injunctive relief, since, as under *Flamingo*, that harm exists if a Nevadan, such as
21 Polymer80, must conduct its affairs in the wake of criminal jeopardy that fails to provide fair notice
22 of the conduct being criminalized.⁶
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27 ⁶ The Defendants previously argued at the preliminary injunction hearing that Section 3(1)(b) would
28 mitigate any harm as all Polymer80 would have to do is put a serial number on its products. The

1 **B. STANDARD OF REVIEW FOR A FACIAL VAGUENESS CHALLENGE**

2 The question before this Court is essentially whether or not AB 286 is unconstitutionally
3 vague under the Due Process Clause of the Nevada Constitution. It is undisputed that Section 3 and
4 Section 3.5 of AB286 are criminal statutes with penalties being elevated as high as category D
5 felonies.

6
7 Nevada’s Due Process Clause states simply that “No person shall be deprived of life, liberty,
8 or property, without due process of law.” Nev. Const., Art. 1, Sec. 8(2). In Nevada, the determination
9 of whether a statute is constitutional is a question of law. *Silvar v. Dist. Ct.*, 122 Nev. 289, 292, 129
10 P.3d 682, 684 (2006).

11 Statutes are presumed to be valid, and the challenger bears the burden
12 of showing that a statute is unconstitutional. The court must interpret
13 a statute in a reasonable manner, that is, [t]he words of the statute
14 should be construed in light of the policy and spirit of the law, and the
15 interpretation made should avoid absurd results. In reviewing a
16 statute, it should be given [its] plain meaning and must be construed
17 as a whole and not be read in a way that would render words or phrases
18 superfluous or make a provision nugatory.

19 *Flamingo Paradise Gaming v. Att’y General*, 125 Nev. 502, 509 (2009). In reviewing the statute,
20 “every reasonable construction must be resorted to, in order to save a statute from
21 unconstitutionality.” *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552 (2010).

22 The Nevada Supreme Court has adopted a two-pronged test for determining whether a
23 criminal statute is so impermissibly vague as to run afoul of the due process clause of the Nevada
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27 argument was abandoned on summary judgment. Section 3(1)(b) and Section 3.5(1)(b) by their own
28 terms only provide relief when the “unfinished” frame or receiver is “required” by federal law to be
imprinted with a serial number. It is undisputed that the products produced by Polymer80 are not
required by federal law to have a serial number imprinted on them.

1 Constitution. See, e.g., *Flamingo Paradise Gaming*, 125 Nev. at 510; *Gallegos v. State*, 123 Nev.
2 289, 294 (2007).

3 A criminal statute can be invalidated for vagueness (1) if it fails to
4 provide a person of ordinary intelligence fair notice of what is
5 prohibited *or* (2) if it is so standardless that it authorizes or encourages
seriously discriminatory enforcement.

6 *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015). Although both civil and criminal statutes
7 are judged under the same test, the Nevada Supreme Court has explained:

8 [T]here are two approaches to a facial vagueness challenge depending
9 on the type of statute at issue. The first approach arises under a facial
10 challenge to a civil statute and the plaintiff must show that the statute
11 is impermissibly vague in all of its applications. In making this
12 showing, [a] complainant who engages in some conduct that is clearly
13 proscribed cannot complain of the vagueness of the law as applied to
14 the conduct of others. **But, when the statute involves criminal
penalties or constitutionally protected rights, the second
approach involves a higher standard of whether “vagueness
permeates the text.**

15 *Flamingo*, 125 Nev. at 512.⁷ Where a statute imposes criminal penalties, as is the case with AB 286,
16 the more exacting standard for Constitutionality is imposed.

17 Under the higher standard, the question becomes whether vagueness
18 so permeates the text that the statute cannot meet these requirements
19 in most applications; and thus, this standard provides for the
20 possibility that some applications of the law would not be void, but
the statute would still be invalid if void in most circumstances.

21 *Flamingo*, 125 Nev. at 507.

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25 ⁷ The Defendants have urged this Court to roll back *Flamingo* and apply the “clearly proscribed
26 conduct” test to this criminal statute as set forth in *Sheriff of Washoe Cty v. Martin*, 99 Nev. 336,
27 340 (1983) (citing *Hoffman Estates v. Flipside, Hoffman Estate, Inc.*, 455 U.S. 489, 495 (1982)). This
28 Court declines to do so as *Flamingo* made clear that under the Nevada Constitution the “clearly
proscribed conduct” analysis applies to vagueness challenges of civil statutes where facial vagueness
challenges need to show that the law is “impermissibly vague in all its applications.”

1 In this Court's view, AB 286, a criminal enactment, fails under both prongs for various
2 reasons resulting in an unconstitutionally vague statute under Nevada Constitutional law. While
3 similar, "the first prong is concerned with guiding those who may be subject to potentially vague
4 statutes, while the second -- and more important -- prong is concerned with guiding the enforcers of
5 statutes." *Silvar v. Dist. Ct.*, 122 Nev. 289, 293, 129 P.3d 682, 685 (2006).

7 **C. SECTIONS 3 AND 3.5 OF AB 286 FAIL TO PROVIDE A PERSON OF ORDINARY**
8 **INTELLIGENCE FAIR NOTICE OF WHAT IS PROHIBITED**

9 Section 3 and Section 3.5 of AB 286 fail to provide a person of ordinary intelligence with
10 fair notice of the conduct which it proscribes. The underlying purpose of this factor is to give a
11 person "notice of the law so they can conform their conduct to its requirements." *Gallegos v. State*,
12 123 Nev. 289, 295 (2007). Those sections of AB 286 criminalize the possession, purchase, transport,
13 receipt, transfer and sale of what the statute calls an "unfinished frame or receiver." While AB 286
14 purports to define the term "unfinished frame or receiver," that definition is as follows:

15 [A] blank, a casting or a machined body that is intended to be turned
16 into the frame or lower receiver of a firearm with additional
17 machining and which has been formed or machined to the point at
18 which most of the major machining operations have been completed
19 to turn the blank, casting or machined body into a frame or lower
receiver of a firearm even if the fire-control cavity area of the blank,
casting or machined body is still completely solid and unmachined.

20 This definition does not provide a person of ordinary intelligence with adequate notice of
21 what AB 286 criminalizes.

22 As stated above, the crimes established in Section 3 and 3.5 are purely the result of Nevada
23 legislative statutory enactment. The terms used in the definition of "unfinished frame or receiver"
24 are not defined elsewhere in the statute. These terms include - blank, casting, machined body,
25 machining, major machining operations, frame or lower receiver of a firearm, and/or fire-control
26 cavity area.

27 The definition does not tell anyone when during the manufacturing process a blank, casting,
28 or machined body (whatever those terms mean) has gone through the "major machining operations"

1 (whatever those are) to turn that blank, casting, or machined body into a frame or lower receiver of
2 a firearm (whatever that may be), a person of ordinary intelligence could not proscribe their conduct
3 to comply with the law. As a result, this Court finds that the text of AB 286 does not provide fair
4 notice of whatever it criminalizes. To this end, this Court asked on multiple occasions during oral
5 argument on the Motion for Summary Judgment what those terms as used in AB 286 mean.
6 Tellingly, the Defendants could not in any manner explain their meaning(s).

7 This Court inquired whether or not the common law defined the terms used in AB 286, and
8 the response that this Court received was clearly in the negative. As such, this Court cannot use the
9 common law to decipher, clarify, or define the inherently vague terms of AB 286. This fact
10 distinguishes this case from *State v. Castaneda*, 126 Nev. 478 (2010)(Common Law definition of
11 indecent exposure – a common law crime), where the Nevada Supreme Court found that that the
12 common law can provide a definition as to what conduct a statute prohibits. This Court inquired as
13 to whether any other Nevada statutes or Nevada case law defined the terms found in AB 286 and,
14 again, the answer was no. As a consequence, this case is also distinguishable from *Silverwing*
15 *Development v. Nevada State Contractors Board*, 136 Nev. Adv. Rep. 74, 476 P.3d 461 (2020),
16 (Commonly accepted definition of “subdivision” contained within the State’s planning and zoning
17 statutes) where the Nevada Supreme Court rejected a vagueness challenge, when Nevada law
18 elsewhere defined an allegedly ambiguous term. Thus, neither the common law nor any other
19 Nevada statutes or authorities define or clarify the vagueness that permeates the text of AB 286.

20 While portions of AB 286 incorporate certain terms that are defined in federal legislation,
21 this Court cannot imply that the Nevada Legislature wanted to incorporate all the existing federal
22 definitions relating to firearms or the Gun Control Act into AB 286. Here, the Nevada Legislature
23 purposely included some federal definitions into AB 286 but, deliberately did not include others.
24 From that fact, this Court can only conclude that the Nevada Legislature purposely did so absent
25 some legislative declaration to the contrary. Simply put, had the Nevada Legislature wished to
26 incorporate other federal definitions into AB 286, it knew how to do so and would have done so. It
27
28

1 did not. And so, this Court will not do what the Nevada Legislature deliberately declined or failed
2 to do.⁸

3 In *Gallegos v. State*, 123 Nev. 289 (2007), the Nevada Supreme Court was faced with the
4 same dilemma. In *Gallegos*, the legislature criminalized the possession of firearms by a “fugitive
5 from justice.” The legislature failed to define what the term “fugitive from justice” meant in relation
6 to the statute. The District Court upheld the validity of the statute and applied the federal definition
7 of “fugitive from justice” into the statute to provide meaning. The Nevada Supreme Court reversed
8 stating:

9 Unlike Congress, the Nevada Legislature has not defined “fugitive
10 from justice.” By failing to adopt the federal definition of “fugitive
11 from justice” or include any definition of that phrase. . . , the
12 Legislature failed to provide the public with statutory notice of what
13 that term means. It could arguably encompass a wide variety of
14 circumstances. . . The fact that the district court, sua sponte, adopted
15 the 18 U.S.C. § 921(a)(15) definition in this case does not remedy that
16 deficiency.

17 *Gallegos v. State*, 123 Nev. @ 294-95.

18 Finally, the legislative history of AB 286 does not shed any light on the undefined terms used
19 in AB 286 nor the meaning of “unfinished frame or receiver.” To the contrary, that history illustrates
20 that the State Legislature received comments during the legislative process that AB 286 was vague,
21 and that the definition of “unfinished frame or receiver” was particularly uncertain. Rather than
22 address the issue through comments or revising the text of AB 286, the Nevada Legislature remained
23 silent. Thus, the legislative history does not aid this Court in unearthing the meaning of the vague

24 ⁸ The Defendants have proposed two separate definitions for the Court to “imply” into the statute to
25 define what a Frame or Receiver is. Both definitions differed substantially. Federal Law (27 CFR §
26 478.11) defines “firearm frame or receiver” as “that part of a firearm which provides housing for the
27 hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward
28 portion to receive the barrel.” The Defendants’ second proposed definition comes from the Glossary
of the Association of Firearm and Toolmark Examiners defining “frame or receiver” as “the finished
part which is capable of being assembled with other parts to put together a firearm.”

1 and undefined terms used in AB 286. It is noteworthy that the parties agreed that the legislative
2 history for AB 286 gives this Court no information to determine what the Nevada Legislature meant
3 when adopting and implementing the definition of “unfinished frame or receiver.” Tellingly, not
4 even Webster’s Dictionary defines a majority of these terms.

5 Defendants contend that since AB 286 includes a *scienter* element, the statute is not void for
6 vagueness. This Court finds this contention unpersuasive. The criminal acts defined in Sections 3
7 and 3.5 of AB 286 do not contain a *scienter* element, as they criminalize, among other things, the
8 possession and sale of “unfinished frames and receivers,” whatever those things may actually be.
9 And, the person possessing or selling those “unfinished frames and receivers” need not have any
10 particular specific intent. In fact, AB 286 only and very generally employs intent in the definition
11 of “unfinished frame or receiver,” stating an “unfinished frame or receiver” is “a blank, a casting or
12 a machined body that is *intended* to be turned into the frame or lower receiver of a firearm.” The
13 use of the word “intended” in this definition does not create the *scienter* element defendants claim
14 to exist within Section 3 and Section 3.5 of the bill.

15 Here, a literal reading of the definitional statute requires that the blank, casting or machined
16 body (all inanimate objects) be intended to be turned into the frame or lower receiver of a firearm.
17 Nowhere in the definitional statute does it indicate who would have to have intended the unfinished
18 frame or receiver to be transformed into a firearm. Is it the manufacturer like Polymer80? It is
19 undisputed that it is their intent not to make a firearm. Is it the seller of a gun kit? They have no
20 intent to make a firearm. The object itself cannot transfer specific intent to the possessor of the item.

21 Even if this Court were to assume an intent element was specifically meant to apply to any
22 individual purportedly violating Section 3 and 3.5, the statute would still be unconstitutionally
23 vague. For example, if Section 3 criminalized the possession of a blank, casting, or machined body
24 only if the person who possessed such an item (whatever it might actually be) specifically intended
25 to turn it into the frame or lower receiver of a firearm with additional machining, AB 286 would still
26 be unconstitutionally vague.

27 In this regard, the statute is expressly conjunctive, such that the blank, casting, or machined
28 body must: (i) be intended to be turned into the frame or lower receiver of a firearm with additional

1 machining, and (ii) already be formed or machined to the point at which most of the major machining
2 operations have been completed. Yet, none of these terms are defined, nor is there any way to know
3 when “most of the major machining operations have been completed,” and then what “additional
4 machining” must still occur and when. Accordingly, any specific intent that can be read into
5 Sections 3 and 3.5 of AB 286 does not salvage the statute, because, even with an intent element, AB
6 286 still fails to provide adequate notice as to what it specifically criminalizes.

7 Sections 3 and 3.5 of AB 286 create a new crimes that do not exist under federal law or
8 common law. Consequently, the only notice of what AB 286 criminalizes is provided in the statute
9 itself. However, the law does not provide adequate notice of what it criminalizes, given that the
10 definition of “unfinished frame or receiver” uses a myriad undefined terms. Moreover, the combined
11 use of these undefined terms results in an overall failure to provide a person of ordinary intelligence
12 with fair notice of what is criminalized. As there is no well-established or ordinary meaning to the
13 terms used in AB 286, Section 3 and Section 3.5 are unconstitutionally vague under the Due Process
14 Clause of the Nevada Constitution.

15
16 **D. SECTIONS 3 AND 3.5 OF AB 286 ARE SO STANDARDLESS THAT IT**
17 **AUTHORIZES OR ENCOURAGES SERIOUSLY DISCRIMINATORY ENFORCEMENT**

18 This Court now turns to whether AB 286 “is so standardless that it authorizes or encourages
19 seriously discriminatory enforcement.” *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015).
20 The Court finds that it is.

21 As explained by the Nevada Supreme Court:

22
23 The concern under this prong is the scope of discretion left to law
24 enforcement officials and prosecutors. Our fear is that absent adequate
25 guidelines, a criminal statute may permit a standardless sweep, which
would allow the police, prosecutors, and juries to ‘pursue their
personal predilections.’

26 *Gallegos*, 125 Nev. @ 296. (Citation Omitted)

27 AB 286 fails to establish clear standards that law enforcement can use to determine whether
28 the law is violated. At its most basic, there is no clear standard for law enforcement to use to

1 determine when an “unfinished frame or receiver” comes into existence. Unlike the federal
2 regulatory process to determine whether a frame or lower receiver is considered a firearm under the
3 Gun Control Act, Nevada has established no authority at all to determine when an “unfinished frame
4 or receiver” actually comes into existence. The most any court can glean from the definition is that
5 it is something less than a firearm and more than a block of raw material. Where on the scale in
6 between both extremes the ill-defined “unfinished frame or receiver” lands is unknown under the
7 law and left to the sole discretion of law enforcement and prosecutors. When does the machining
8 process start? When does the raw material become machined and through what processes? What
9 constitutes a “major machining operation” versus machining itself? Would the “fire-control cavity”
10 be considered a “major machining operation” or is it excluded? What additional machining needs to
11 be completed? It is unclear and undefined under the statute.

12 Nevadans would face the risk of discriminatory enforcement by police and prosecutors alike
13 as they, in their sole discretion and without guidance, could label almost anything an “unfinished
14 frame or receiver,” if it in any way even resembles a firearm’s undefined frame or lower receiver.
15 There is no clear statutory language to bridle that discretion or to prevent state actors from pursuing
16 their personal predilections.

17 Ordinary Nevada citizens are at risk of arbitrary and discriminatory enforcement of Section
18 3 and 3.5 of AB 286 owing to the vagueness that permeates the text of the law. Therefore,
19 enforcement of AB 286 is standardless to such a degree that it authorizes and/or encourages arbitrary
20 and discriminatory enforcement.

21 For this additional reason, the Court finds that Sections 3 and 3.5 of AB 286 are
22 unconstitutionally vague under the Nevada Constitution’s Due Process Clause.

23 **V**

24 **ORDER AND JUDGMENT**

25 Based upon all of the foregoing, the Court finds that Section 3 and 3.5 of AB 286 are
26 unconstitutionally vague, insofar as the law: (i) fails to provide a person of ordinary intelligence
27 with fair notice of the conduct that is prohibited, and (ii) is so standardless that it authorizes and
28 encourages seriously arbitrary and discriminatory enforcement.

1 Good cause appearing,

2 IT IS HEREBY ORDERED that the *Motion of Polymer80, Inc, for Summary Judgment* is
3 GRANTED.

4 IT IS HEREBY FURTHER ORDERED that *Defendants' Motion for Summary Judgment* is
5 DENIED.

6 IT IS HEREBY FURTHER ORDERED that a Declaratory Judgment be entered in favor of
7 Polymer80 and against Defendants; to wit,

8 IT IS HEREBY FURTHER ORDERED, DECREED AND DECLARED that Section 3 and
9 Section 3.5 AB 286 are unconstitutionally vague and violate the Due Process Clause of the Nevada
10 State Constitution.

11 IT IS HEREBY FURTHER ORDERED that a Permanent Injunction be entered in favor of
12 Polymer80 and against Defendants; to wit,

13 IT IS HEREBY ORDERED that the State of Nevada and Defendants, STEPHEN SISOLAK,
14 Governor of Nevada, AARON FORD, Attorney General of Nevada, GEORGE TOGLIATTI,
15 Director of the Nevada Department of Public Safety, MINDY MCKAY, Administrator of the
16 Records, Communications, and Compliance Division of the Nevada Department of Public Safety,
17 and their respective successors, officers, agents, servants, and employees and anyone acting in
18 concert with them, individually and/or collectively, are hereby permanently enjoined from enforcing
19 Section 3 and Section 3.5 of AB 286.

20 IT IS HEREBY FURTHER ORDERED that the security Polymer80 previously posted with
21 this Court pursuant to NRCP 65(c) in the amount of \$20,000.00 (Twenty Thousand Dollars) be
22 exonerated and released to Polymer80 forthwith.

23 THIS IS A FINAL JUDGMENT.

24 DATED this 10th day of December, 2021.

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JOHN P. SCHLEGELMILCH,
DISTRICT JUDGE

1 Case No. 21-CV-00690

2 Dept. No. I

3 **Certificate of Mailing**

4 I hereby certify that I, Andrew C. Nelson, am an employee of the Third Judicial District
5 Court, and that on this date pursuant to NRCP 5(b), a true copy of the foregoing document was
6 mailed at Yerington, Nevada addressed to:

7 Gregory L. Zunino, Esq.
8 *Emailed: gzunino@ag.nv.gov

9 Brad M. Johnston, Esq.
10 *Emailed: bjohnston@shjnevada.com


11 James J. McGuire, Esq.
12 *Emailed: james.mcguire@gmlaw.com

13 Michael Patrick, Esq.
14 *Emailed: michael.patrick@gmlaw.com

15 Mark Doerr
16 *Emailed: mark.doerr@gmlaw.com

17 Craig A. Newby, Esq.
18 *Emailed: CNewby@ag.nv.gov

19 DATED: This 16th day of December, 2021.

20
21 
22 Employee of Hon. John P. Schlegelmilch
23
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1 Case No. 21-CV-00690

2 Dept. No. 1

3 The undersigned affirms that this document
4 does not contain the social security number
5 of any individual.

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2021 DEC 13 AM 9:12
TANYA SEVINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT
Tanya Sevine

6 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF LYON**

8 POLYMER80, INC.,

9 Plaintiff,

10 vs.

11
12 STEPHEN SISOLAK, Governor of Nevada, AARON
13 FORD, Attorney General of Nevada, GEORGE
14 TOGLIATTI, Director of the Nevada Department
15 of Public Safety, MINDY MCKAY, Administrator
16 of the Records, Communications, and Compliance
17 Division of the Nevada Department of Public
18 Safety,

19 Defendants.

20 **NOTICE OF ENTRY OF ORDER**

21 Plaintiff Polymer80, Inc., by and through its undersigned counsel, hereby provides
22 written notice of entry of the *Findings of Fact, Conclusions of Law, and Order Granting*
23 *Summary Judgment in Favor of Plaintiff, Polymer80, Inc.* attached hereto as **Exhibit A**.

24 Dated this 13th day of December, 2021. SIMONS HALL JOHNSTON PC

25 By: 
26 Brad M. Johnston, Esq.
27 Nevada Bar No. 8515
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-and-

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Attorneys for Plaintiff Polymer80, Inc.

Exhibit A

Exhibit A

FILED

2021 DEC 10 AM 9:54

CLERK OF COURT
THIRD JUDICIAL DISTRICT

Kathy Thomas

1 Case No. 21-CV-00690

2 Dept. No. 1

3 The undersigned affirms that this document
4 does not contain the social security number
5 of any individual.

6 **IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF LYON**

8 POLYMER80, INC.,

9 Plaintiff,

10 vs.

11
12 STEPHEN SISOLAK, Governor of Nevada, AARON
13 FORD, Attorney General of Nevada, GEORGE
14 TOGLIATTI, Director of the Nevada Department
15 of Public Safety, MINDY MCKAY, Administrator
16 of the Records, Communications, and Compliance
17 Division of the Nevada Department of Public
18 Safety,

19 Defendants.

**FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER GRANTING SUMMARY
JUDGMENT IN FAVOR OF
PLAINTIFF, POLYMER80, INC.**

18 This matter is before the Court upon the parties' competing Motions for Summary Judgment
19 both filed on November 8, 2021, and duly opposed by each party on November 18, 2021. The matter
20 was set for argument on November 23, 2021. Plaintiff was present and represented by Brad
21 Johnston, Esq., of Simons Hall Johnston PC (via Zoom) and James J. McGuire, Esq., (pro hac vice)
22 of Greenspoon Marder LLP, who was present in Court. The Defendants were represented by Craig
23 A. Newby, Esq., Deputy Solicitor General, who was present in Court.

24 This Court, having reviewed and considered the parties' respective motions and oppositions
25 for summary judgment, considered the exhibits thereto and arguments therein, conducted a hearing
26 upon those motions, and heard oral argument from counsel for Polymer80 and for Defendants, and
27
28

1 good cause appearing, makes the following FINDINGS OF FACT, CONCLUSIONS OF LAW,
2 AND ORDERS.

3 I

4 **PROCEDURAL HISTORY**

5
6 During the 81st legislative session, the Nevada Legislature passed Assembly Bill 286 (“AB
7 286”). AB 286 is -- “AN ACT relating to crimes; prohibiting persons from engaging in certain acts
8 relating to unfinished frames or receivers under certain circumstances; ... providing penalties; and
9 providing other matters properly relating thereto.” Nevada Governor, Stephen Sisolak, signed AB
10 286 into law on June 7, 2021.

11 On June 22, 2021, Plaintiff, Polymer80, Inc. (“Polymer80”), filed this lawsuit against
12 Defendants, Stephen Sisolak, Governor of Nevada, Aaron Ford, Attorney General of Nevada,
13 George Togliatti, Director of the Nevada Department of Public Safety, and Mindy McKay,
14 Administrator of the Records, Communications, and Compliance Division of the Nevada
15 Department of Public Safety (collectively referred to as “Defendants”), alleging that Sections 3 and
16 3.5 of AB 286 are unconstitutionally vague under the Due Process Clause of the Constitution of the
17 State of Nevada (“Nevada Constitution”). In its Verified Complaint, Polymer80 sought a
18 Declaration from this Court that Sections 3 and 3.5 of AB 286 violate the Nevada Constitution and
19 a Permanent Injunction barring enforcement of the new law.

20 On June 25, 2021, Polymer80 filed its *Motion for Temporary Restraining Order and*
21 *Preliminary Injunction*. After briefing and a hearing, this Court, on July 16, 2021, entered its *Order*
22 *Granting Preliminary Injunction*, preliminarily barring enforcement of Section 3.5 of AB 286.¹ That
23 Order is currently pending appeal at the Nevada Supreme Court.

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¹ At that time, this Court declined to enter a Preliminary Injunction as to the enforcement of AB 286
Section 3, because that portion of the new statute would not go into effect until January 1, 2022.

1 Thereafter, the Court held a Case Management and Scheduling Conference on July 14, 2021,
2 that resulted in a July 15, 2021, *Case Management and Trial Scheduling Order* setting an expedited
3 trial date of November 30, 2021. That Order also provided that the parties could engage in discovery
4 through November 1, 2021, and fixed November 8, 2021, as the deadline for filing dispositive
5 motions. By so ruling, this Court wanted to, and did, afford the parties the opportunity to develop
6 the evidentiary record to be presented upon motions for summary judgment and/or at trial.

7 In the ensuing months, the parties proceeded with discovery. Both Polymer80 and
8 Defendants timely filed Motions for Summary Judgment on November 8, 2021.² Pursuant to the
9 parties' Stipulation, this Court directed that they file their oppositions to the other side's summary
10 judgment motion on November 18, 2021, dispense with reply briefs, and proceed to a full hearing
11 on November 23, 2021. That hearing was held as scheduled and the Court heard substantial
12 argument from the parties. Notably, both parties agreed at that hearing that this Court could decide
13 this case upon the record before it at that point, and that a trial was unnecessary. At the conclusion
14 of the hearing, the Court rendered an oral ruling granting Polymer80 summary judgment. This Order
15 follows and memorializes that ruling.

16 Accordingly,

17 IT IS HEREBY ORDERED that the *Motion of Polymer80, Inc., for Summary Judgment* is
18 GRANTED, and that *Defendants' Motion for Summary Judgment* is DENIED, for the reasons set
19 forth herein and on the record at the November 23, 2021, hearing.
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24 ² Before the parties filed their competing Motions for Summary Judgment, Defendants filed an
25 appeal from this Court's *Order Granting Preliminary Injunction*. Thereafter, Defendants filed a
26 Motion to Stay this case in this Court, arguing, among other things, that this matter presented a pure
27 question of law that would be resolved upon their then-pending appeal. This Court denied
28 Defendants stay, largely because the issue on appeal was not the ultimate question of whether or not
AB 286 was and is unconstitutionally vague but whether or not this Court had abused its discretion
in granting interim relief. Moreover, a stay would have only delayed a ruling on the constitutionality
of AB 286, which would not have been in the best interests of either Plaintiff or Defendants.

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II

CONTESTED PROVISIONS OF AB 286

The 81st Nevada Legislature amended Chapter 202 of the Nevada Revised Statutes by adding, among others, the following provisions, which are the subject of this proceeding.

First, Section 3 of AB 286, effective as of January 1, 2022, provides as follows:

1. A person shall not possess, purchase, transport or receive an unfinished frame or receiver unless:

- (a) The person is a firearms importer or manufacturer; or
- (b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by a firearms importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

2. A person who violates this section:

- (a) For the first offense, is guilty of a gross misdemeanor; and
- (b) For the second or any subsequent offense is guilty of a category D felony and shall be punished as provided in NRS 193.130.³

Plainly, this provision makes it a crime to “possess, purchase, transport or receive an unfinished frame or receiver” in the State of Nevada.

Second, Section 3.5 of AB 286, which became effective on June 7, 2021, provides as follows:

1. A person shall not sell, offer to sell or transfer an unfinished frame or receiver unless:

- (a) The person is:
 - (1) A firearms importer or manufacturer; and
 - (2) The recipient of the unfinished frame or receiver is a firearms importer or manufacturer; or
- (b) The unfinished frame or receiver is required by federal law to be imprinted with a serial number issued by an importer or manufacturer and the unfinished frame or receiver has been imprinted with the serial number.

27 ³ NRS 193.130 provides that a category D felony is punishable by 1-4 years in Nevada State Prison
28 and a fine of up to \$5,000.00.

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- 2. A person who violates this section:
 - (a) For the first offense, is guilty of a gross misdemeanor;
 - and
 - (b) For the second or any subsequent offense is guilty of a category D felony and shall be punished as provided in NRS 193.130

This Section makes it a crime to “sell, offer to sell or transfer an unfinished frame or receiver” in the State of Nevada.

Section 6 of AB 286 amended NRS 202.253 by adding the term “[u]nfinished frame or receiver” to Nevada law and defines that term as follows:

9. “Unfinished frame or receiver” means a blank, a casting or a machined body that is intended to be turned into the frame or lower receiver of a firearm with additional machining and which has been formed or machined to the point at which most of the major machining operations have been completed to turn the blank, casting or machined body into a frame or lower receiver of a firearm even if the fire-control cavity area of the blank, casting or machined body is still completely solid and unmachined.

Polymer80 argues that Sections 3 and 3.5 of AB 286 are unconstitutionally vague under the Due Process Clause of the Nevada Constitution.⁴

III
STANDARD ON SUMMARY JUDGMENT

Summary judgment is appropriate, where “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” NRCP 56(c). While this Court must construe the evidence in the light most favorable to the nonmoving party upon such a motion, the nonmoving party “bears the burden to do more than simply show that there is some metaphysical doubt as to the operative facts in order to avoid

⁴ This decision does not extend to Section 4 or 5 of AB 286 and this Court makes no judgment relating to the efficacy of those provisions.

1 summary judgment being entered in the moving party's favor." *Wood v. Safeway, Inc.*, 121 Nev.
2 724, 732 (2005) (quotations omitted). "The nonmoving party must, by affidavit or otherwise, set
3 forth specific facts demonstrating the existence of a genuine issue for trial or have summary
4 judgment entered against him." *Id.* And, the party opposing summary judgment cannot build a case
5 on the "gossamer threads of whimsy, speculation, and conjecture." *Id.* (quoting *Bulbman, Inc. v.*
6 *Nevada Bell*, 108 Nev. 105, 110 (1992)). Critically, the Nevada Supreme Court, as the parties have
7 acknowledged, has held that summary judgment is appropriate with respect to, as here, a facial Due
8 Process challenge on vagueness grounds to the constitutionality of a criminal statute. *See Flamingo*
9 *Paradise Gaming, LLC v. Chanos*, 125 Nev. 502, 508-09 (2009). As explained below, there are no
10 "genuine issues of material fact" precluding summary judgment, and this Court may properly resolve
11 this action on summary judgment upon the record before it.

12 IV

13 FINDINGS OF FACT AND CONCLUSIONS OF LAW

14 Polymer80 is a Nevada corporation headquartered in Dayton, Nevada, within Lyon County.
15 It manufactures, designs, and distributes gun-related products, components, and after-market
16 accessories. The legislative history reveals that AB 286 has targeted, at least partially, certain of
17 Polymer80's business products. Defendants have also admitted as much in their Answer and in their
18 moving papers. As set forth in the testimony of Assemblywoman Sandra Jauregui:

19 . . . a Nevada based company, Polmer80, Inc., [is] one of the nation's
20 largest manufacturers of ghost guns.

21 Minutes, Assembly Committee on Judiciary, p.6 (March 17, 2021). Assemblyman Wheeler stated
22 therein:

23 The kit guns you called ghost guns are used by a lot of hobbyists.
24 Under federal law, those are quite legal, so outlawing them in Nevada,
25 as this bill tries to do, basically puts a company [Polmer80] in my
26 district out of business. . . .
27 We are going to drive a company in my district out of business, but
28 people can still buy them in Kentucky. . .

1 Minutes, Assembly Committee on Judiciary, p.13-14 (March 17, 2021).⁵

2 **A. STANDING OF POLMER80**

3 In Defendants' Answer and at the Motion for Preliminary Injunction hearing, the State of
4 Nevada contested Polymer80's standing to contest the constitutional validity of AB 286. The
5 Defendants' have not argued a lack of standing on summary judgment. However, Polymer80 asserts
6 in their Motion that they indeed have standing.

7 NRS 30.040 provides, in pertinent part:

8 **NRS 30.040. Questions of construction or validity of . . . statutes.**

9 1. Any person . . . whose rights, status or other legal relations
10 are affected by a statute . . . may have determined any question of
11 construction or validity arising under the . . . statute . . . and obtain a
12 declaration of rights, status or other legal relations thereunder.

12 NRS 30.040(1). In Nevada, the issue of Standing is a question of law. *Arguello v. Sunset Station,*
13 *Inc.*, 127 Nev. 365, 368 (2011). As explained recently by the Nevada Supreme Court:

14 The question of standing concerns whether the party seeking relief has
15 a sufficient interest in the litigation. The primary purpose of this
16 standing inquiry is to ensure the litigant will vigorously and
17 effectively present his or her case against an adverse party. Thus, a
18 requirement of standing is that the litigant personally suffer injury that
19 can be fairly traced to the allegedly unconstitutional statute and which
20 would be redressed by invalidating the statute. A general interest in
21 the matter is normally insufficient: a party must show a personal
22 injury.

20 *Flor Morency v Nevada Department of Education*, 137 Nev. Adv. Op. 63, p. 7, 496 P.3d 584 (Oct.
21 7, 2021), (Citations Omitted).

26 _____
27 ⁵ This Court notes that there are multiple references to Polmer80 in the legislative history of AB 286
28 all indicating the negative impact of the bill on their ability to conduct business in the State of
Nevada.

1 This Court finds that Polymer80 has standing to mount a facial vagueness challenge to the
2 constitutionality of AB 286. Like the Plaintiffs in *Flamingo Paradise Gaming, LLC v. Chanos*, 125
3 Nev. 502, 508-09 (2009), Polymer80 could be subject to criminal prosecution stemming from its
4 ongoing conduct. Polymer80's facial challenge to AB 286 is ripe for this Court's adjudication as
5 Section 3.5 of AB 286 took effect earlier this year upon approval by the Governor and Section 3 of
6 AB 286 takes effect January 1, 2022. Accordingly, it is ripe for this Court to determine whether or
7 not both of those Sections of AB 286 are unconstitutionally vague under the Due Process Clause of
8 the Nevada Constitution.
9

10 Polymer80 satisfies the requirement to show that they would "personally suffer injury that
11 can fairly be traced to the allegedly unconstitutional statute" by facing the prospect of felony
12 criminal prosecution each time they produce a product which allegedly falls under the purview of
13 the statute. Further, Polymer80 would suffer significant economic loss as set forth in the Deposition
14 testimony submitted, and uncontested by the Defendants. This, combined with the legislative history
15 showing that the thrust of the bill was to put Polymer80 out of business, clearly establishes that,
16 unlike any other potential litigant, Polymer80 will vigorously and effectively present the case for
17 facial invalidity of the statute – which is Polymer80's only true redress.
18

19 This Court determines that Polymer80 will suffer irreparable harm in the absence of
20 declaratory and/or injunctive relief, since, as under *Flamingo*, that harm exists if a Nevadan, such as
21 Polymer80, must conduct its affairs in the wake of criminal jeopardy that fails to provide fair notice
22 of the conduct being criminalized.⁶
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27 ⁶ The Defendants previously argued at the preliminary injunction hearing that Section 3(1)(b) would
28 mitigate any harm as all Polymer80 would have to do is put a serial number on its products. The

1 **B. STANDARD OF REVIEW FOR A FACIAL VAGUENESS CHALLENGE**

2 The question before this Court is essentially whether or not AB 286 is unconstitutionally
3 vague under the Due Process Clause of the Nevada Constitution. It is undisputed that Section 3 and
4 Section 3.5 of AB286 are criminal statutes with penalties being elevated as high as category D
5 felonies.
6

7 Nevada's Due Process Clause states simply that "No person shall be deprived of life, liberty,
8 or property, without due process of law." Nev. Const., Art. 1, Sec. 8(2). In Nevada, the determination
9 of whether a statute is constitutional is a question of law. *Silvar v. Dist. Ct.*, 122 Nev. 289, 292, 129
10 P.3d 682, 684 (2006).

11 Statutes are presumed to be valid, and the challenger bears the burden
12 of showing that a statute is unconstitutional. The court must interpret
13 a statute in a reasonable manner, that is, [t]he words of the statute
14 should be construed in light of the policy and spirit of the law, and the
15 interpretation made should avoid absurd results. In reviewing a
16 statute, it should be given [its] plain meaning and must be construed
17 as a whole and not be read in a way that would render words or phrases
18 superfluous or make a provision nugatory.

19 *Flamingo Paradise Gaming v. Att'y General*, 125 Nev. 502, 509 (2009). In reviewing the statute,
20 "every reasonable construction must be resorted to, in order to save a statute from
21 unconstitutionality." *State v. Castaneda*, 126 Nev. 478, 481, 245 P.3d 550, 552 (2010).

22 The Nevada Supreme Court has adopted a two-pronged test for determining whether a
23 criminal statute is so impermissibly vague as to run afoul of the due process clause of the Nevada
24

25
26 argument was abandoned on summary judgment. Section 3(1)(b) and Section 3.5(1)(b) by their own
27 terms only provide relief when the "unfinished" frame or receiver is "required" by federal law to be
28 imprinted with a serial number. It is undisputed that the products produced by Polymer80 are not
required by federal law to have a serial number imprinted on them.

1 Constitution. See, e.g., *Flamingo Paradise Gaming*, 125 Nev. at 510; *Gallegos v. State*, 123 Nev.
2 289, 294 (2007).

3 A criminal statute can be invalidated for vagueness (1) if it fails to
4 provide a person of ordinary intelligence fair notice of what is
5 prohibited *or* (2) if it is so standardless that it authorizes or encourages
seriously discriminatory enforcement.

6 *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015). Although both civil and criminal statutes
7 are judged under the same test, the Nevada Supreme Court has explained:

8 [T]here are two approaches to a facial vagueness challenge depending
9 on the type of statute at issue. The first approach arises under a facial
10 challenge to a civil statute and the plaintiff must show that the statute
11 is impermissibly vague in all of its applications. In making this
12 showing, [a] complainant who engages in some conduct that is clearly
13 proscribed cannot complain of the vagueness of the law as applied to
14 the conduct of others. **But, when the statute involves criminal
penalties or constitutionally protected rights, the second
approach involves a higher standard of whether “vagueness
permeates the text.**

15 *Flamingo*, 125 Nev. at 512.⁷ Where a statute imposes criminal penalties, as is the case with AB 286,
16 the more exacting standard for Constitutionality is imposed.

17 Under the higher standard, the question becomes whether vagueness
18 so permeates the text that the statute cannot meet these requirements
19 in most applications; and thus, this standard provides for the
20 possibility that some applications of the law would not be void, but
the statute would still be invalid if void in most circumstances.

21 *Flamingo*, 125 Nev. at 507.

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25 ⁷ The Defendants have urged this Court to roll back *Flamingo* and apply the “clearly proscribed
26 conduct” test to this criminal statute as set forth in *Sheriff of Washoe Cty v. Martin*, 99 Nev. 336,
27 340 (1983) (citing *Hoffman Estates v. Flipside, Hoffman Estate, Inc.*, 455 U.S. 489, 495 (1982)). This
28 Court declines to do so as *Flamingo* made clear that under the Nevada Constitution the “clearly
proscribed conduct” analysis applies to vagueness challenges of civil statutes where facial vagueness
challenges need to show that the law is “impermissibly vague in all its applications.”

1 In this Court's view, AB 286, a criminal enactment, fails under both prongs for various
2 reasons resulting in an unconstitutionally vague statute under Nevada Constitutional law. While
3 similar, "the first prong is concerned with guiding those who may be subject to potentially vague
4 statutes, while the second -- and more important -- prong is concerned with guiding the enforcers of
5 statutes." *Silvar v. Dist. Ct.*, 122 Nev. 289, 293, 129 P.3d 682, 685 (2006).
6

7 **C. SECTIONS 3 AND 3.5 OF AB 286 FAIL TO PROVIDE A PERSON OF ORDINARY**
8 **INTELLIGENCE FAIR NOTICE OF WHAT IS PROHIBITED**

9 Section 3 and Section 3.5 of AB 286 fail to provide a person of ordinary intelligence with
10 fair notice of the conduct which it proscribes. The underlying purpose of this factor is to give a
11 person "notice of the law so they can conform their conduct to its requirements." *Gallegos v. State*,
12 123 Nev. 289, 295 (2007). Those sections of AB 286 criminalize the possession, purchase, transport,
13 receipt, transfer and sale of what the statute calls an "unfinished frame or receiver." While AB 286
14 purports to define the term "unfinished frame or receiver," that definition is as follows:

15 [A] blank, a casting or a machined body that is intended to be turned
16 into the frame or lower receiver of a firearm with additional
17 machining and which has been formed or machined to the point at
18 which most of the major machining operations have been completed
19 to turn the blank, casting or machined body into a frame or lower
receiver of a firearm even if the fire-control cavity area of the blank,
casting or machined body is still completely solid and unmachined.

20 This definition does not provide a person of ordinary intelligence with adequate notice of
21 what AB 286 criminalizes.

22 As stated above, the crimes established in Section 3 and 3.5 are purely the result of Nevada
23 legislative statutory enactment. The terms used in the definition of "unfinished frame or receiver"
24 are not defined elsewhere in the statute. These terms include - blank, casting, machined body,
25 machining, major machining operations, frame or lower receiver of a firearm, and/or fire-control
26 cavity area.

27 The definition does not tell anyone when during the manufacturing process a blank, casting,
28 or machined body (whatever those terms mean) has gone through the "major machining operations"

1 (whatever those are) to turn that blank, casting, or machined body into a frame or lower receiver of
2 a firearm (whatever that may be), a person of ordinary intelligence could not proscribe their conduct
3 to comply with the law. As a result, this Court finds that the text of AB 286 does not provide fair
4 notice of whatever it criminalizes. To this end, this Court asked on multiple occasions during oral
5 argument on the Motion for Summary Judgment what those terms as used in AB 286 mean.
6 Tellingly, the Defendants could not in any manner explain their meaning(s).

7 This Court inquired whether or not the common law defined the terms used in AB 286, and
8 the response that this Court received was clearly in the negative. As such, this Court cannot use the
9 common law to decipher, clarify, or define the inherently vague terms of AB 286. This fact
10 distinguishes this case from *State v. Castaneda*, 126 Nev. 478 (2010)(Common Law definition of
11 indecent exposure – a common law crime), where the Nevada Supreme Court found that that the
12 common law can provide a definition as to what conduct a statute prohibits. This Court inquired as
13 to whether any other Nevada statutes or Nevada case law defined the terms found in AB 286 and,
14 again, the answer was no. As a consequence, this case is also distinguishable from *Silverwing*
15 *Development v. Nevada State Contractors Board*, 136 Nev. Adv. Rep. 74, 476 P.3d 461 (2020),
16 (Commonly accepted definition of “subdivision” contained within the State’s planning and zoning
17 statutes) where the Nevada Supreme Court rejected a vagueness challenge, when Nevada law
18 elsewhere defined an allegedly ambiguous term. Thus, neither the common law nor any other
19 Nevada statutes or authorities define or clarify the vagueness that permeates the text of AB 286.

20 While portions of AB 286 incorporate certain terms that are defined in federal legislation,
21 this Court cannot imply that the Nevada Legislature wanted to incorporate all the existing federal
22 definitions relating to firearms or the Gun Control Act into AB 286. Here, the Nevada Legislature
23 purposely included some federal definitions into AB 286 but, deliberately did not include others.
24 From that fact, this Court can only conclude that the Nevada Legislature purposely did so absent
25 some legislative declaration to the contrary. Simply put, had the Nevada Legislature wished to
26 incorporate other federal definitions into AB 286, it knew how to do so and would have done so. It

1 did not. And so, this Court will not do what the Nevada Legislature deliberately declined or failed
2 to do.⁸

3 In *Gallegos v. State*, 123 Nev. 289 (2007), the Nevada Supreme Court was faced with the
4 same dilemma. In *Gallegos*, the legislature criminalized the possession of firearms by a “fugitive
5 from justice.” The legislature failed to define what the term “fugitive from justice” meant in relation
6 to the statute. The District Court upheld the validity of the statute and applied the federal definition
7 of “fugitive from justice” into the statute to provide meaning. The Nevada Supreme Court reversed
8 stating:

9 Unlike Congress, the Nevada Legislature has not defined “fugitive
10 from justice.” By failing to adopt the federal definition of “fugitive
11 from justice” or include any definition of that phrase. . . , the
12 Legislature failed to provide the public with statutory notice of what
13 that term means. It could arguably encompass a wide variety of
14 circumstances. . . The fact that the district court, sua sponte, adopted
15 the 18 U.S.C. § 921(a)(15) definition in this case does not remedy that
16 deficiency.

17 *Gallegos v. State*, 123 Nev. @ 294-95.

18 Finally, the legislative history of AB 286 does not shed any light on the undefined terms used
19 in AB 286 nor the meaning of “unfinished frame or receiver.” To the contrary, that history illustrates
20 that the State Legislature received comments during the legislative process that AB 286 was vague,
21 and that the definition of “unfinished frame or receiver” was particularly uncertain. Rather than
22 address the issue through comments or revising the text of AB 286, the Nevada Legislature remained
23 silent. Thus, the legislative history does not aid this Court in unearthing the meaning of the vague

24 ⁸ The Defendants have proposed two separate definitions for the Court to “imply” into the statute to
25 define what a Frame or Receiver is. Both definitions differed substantially. Federal Law (27 CFR §
26 478.11) defines “firearm frame or receiver” as “that part of a firearm which provides housing for the
27 hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward
28 portion to receive the barrel.” The Defendants’ second proposed definition comes from the Glossary
of the Association of Firearm and Toolmark Examiners defining “frame or receiver” as “the finished
part which is capable of being assembled with other parts to put together a firearm.”

1 and undefined terms used in AB 286. It is noteworthy that the parties agreed that the legislative
2 history for AB 286 gives this Court no information to determine what the Nevada Legislature meant
3 when adopting and implementing the definition of “unfinished frame or receiver.” Tellingly, not
4 even Webster’s Dictionary defines a majority of these terms.

5 Defendants contend that since AB 286 includes a *scienter* element, the statute is not void for
6 vagueness. This Court finds this contention unpersuasive. The criminal acts defined in Sections 3
7 and 3.5 of AB 286 do not contain a *scienter* element, as they criminalize, among other things, the
8 possession and sale of “unfinished frames and receivers,” whatever those things may actually be.
9 And, the person possessing or selling those “unfinished frames and receivers” need not have any
10 particular specific intent. In fact, AB 286 only and very generally employs intent in the definition
11 of “unfinished frame or receiver,” stating an “unfinished frame or receiver” is “a blank, a casting or
12 a machined body that is *intended* to be turned into the frame or lower receiver of a firearm.” The
13 use of the word “intended” in this definition does not create the *scienter* element defendants claim
14 to exist within Section 3 and Section 3.5 of the bill.

15 Here, a literal reading of the definitional statute requires that the blank, casting or machined
16 body (all inanimate objects) be intended to be turned into the frame or lower receiver of a firearm.
17 Nowhere in the definitional statute does it indicate who would have to have intended the unfinished
18 frame or receiver to be transformed into a firearm. Is it the manufacturer like Polymer80? It is
19 undisputed that it is their intent not to make a firearm. Is it the seller of a gun kit? They have no
20 intent to make a firearm. The object itself cannot transfer *specific intent* to the possessor of the item.

21 Even if this Court were to assume an intent element was specifically meant to apply to any
22 individual purportedly violating Section 3 and 3.5, the statute would still be unconstitutionally
23 vague. For example, if Section 3 criminalized the possession of a blank, casting, or machined body
24 only if the person who possessed such an item (whatever it might actually be) specifically intended
25 to turn it into the frame or lower receiver of a firearm with additional machining, AB 286 would still
26 be unconstitutionally vague.

27 In this regard, the statute is expressly conjunctive, such that the blank, casting, or machined
28 body must: (i) be intended to be turned into the frame or lower receiver of a firearm with additional

1 machining, and (ii) already be formed or machined to the point at which most of the major machining
2 operations have been completed. Yet, none of these terms are defined, nor is there any way to know
3 when “most of the major machining operations have been completed,” and then what “additional
4 machining” must still occur and when. Accordingly, any specific intent that can be read into
5 Sections 3 and 3.5 of AB 286 does not salvage the statute, because, even with an intent element, AB
6 286 still fails to provide adequate notice as to what it specifically criminalizes.

7 Sections 3 and 3.5 of AB 286 create a new crimes that do not exist under federal law or
8 common law. Consequently, the only notice of what AB 286 criminalizes is provided in the statute
9 itself. However, the law does not provide adequate notice of what it criminalizes, given that the
10 definition of “unfinished frame or receiver” uses a myriad undefined terms. Moreover, the combined
11 use of these undefined terms results in an overall failure to provide a person of ordinary intelligence
12 with fair notice of what is criminalized. As there is no well-established or ordinary meaning to the
13 terms used in AB 286, Section 3 and Section 3.5 are unconstitutionally vague under the Due Process
14 Clause of the Nevada Constitution.

15
16 **D. SECTIONS 3 AND 3.5 OF AB 286 ARE SO STANDARDLESS THAT IT**
17 **AUTHORIZES OR ENCOURAGES SERIOUSLY DISCRIMINATORY ENFORCEMENT**

18 This Court now turns to whether AB 286 “is so standardless that it authorizes or encourages
19 seriously discriminatory enforcement.” *Scott v. First Jud. Dist. Ct.*, 131 Nev. 1015, 1021 (2015).
20 The Court finds that it is.

21 As explained by the Nevada Supreme Court:

22
23 The concern under this prong is the scope of discretion left to law
24 enforcement officials and prosecutors. Our fear is that absent adequate
25 guidelines, a criminal statute may permit a standardless sweep, which
would allow the police, prosecutors, and juries to ‘pursue their
personal predilections.’

26 *Gallegos*, 125 Nev. @ 296. (Citation Omitted)

27 AB 286 fails to establish clear standards that law enforcement can use to determine whether
28 the law is violated. At its most basic, there is no clear standard for law enforcement to use to

1 determine when an “unfinished frame or receiver” comes into existence. Unlike the federal
2 regulatory process to determine whether a frame or lower receiver is considered a firearm under the
3 Gun Control Act, Nevada has established no authority at all to determine when an “unfinished frame
4 or receiver” actually comes into existence. The most any court can glean from the definition is that
5 it is something less than a firearm and more than a block of raw material. Where on the scale in
6 between both extremes the ill-defined “unfinished frame or receiver” lands is unknown under the
7 law and left to the sole discretion of law enforcement and prosecutors. When does the machining
8 process start? When does the raw material become machined and through what processes? What
9 constitutes a “major machining operation” versus machining itself? Would the “fire-control cavity”
10 be considered a “major machining operation” or is it excluded? What additional machining needs to
11 be completed? It is unclear and undefined under the statute.

12 Nevadans would face the risk of discriminatory enforcement by police and prosecutors alike
13 as they, in their sole discretion and without guidance, could label almost anything an “unfinished
14 frame or receiver,” if it in any way even resembles a firearm’s undefined frame or lower receiver.
15 There is no clear statutory language to bridle that discretion or to prevent state actors from pursuing
16 their personal predilections.

17 Ordinary Nevada citizens are at risk of arbitrary and discriminatory enforcement of Section
18 3 and 3.5 of AB 286 owing to the vagueness that permeates the text of the law. Therefore,
19 enforcement of AB 286 is standardless to such a degree that it authorizes and/or encourages arbitrary
20 and discriminatory enforcement.

21 For this additional reason, the Court finds that Sections 3 and 3.5 of AB 286 are
22 unconstitutionally vague under the Nevada Constitution’s Due Process Clause.

23 **V**

24 **ORDER AND JUDGMENT**

25 Based upon all of the foregoing, the Court finds that Section 3 and 3.5 of AB 286 are
26 unconstitutionally vague, insofar as the law: (i) fails to provide a person of ordinary intelligence
27 with fair notice of the conduct that is prohibited, and (ii) is so standardless that it authorizes and
28 encourages seriously arbitrary and discriminatory enforcement.

1 Good cause appearing,

2 IT IS HEREBY ORDERED that the *Motion of Polymer80, Inc, for Summary Judgment* is
3 GRANTED.

4 IT IS HEREBY FURTHER ORDERED that *Defendants' Motion for Summary Judgment* is
5 DENIED.

6 IT IS HEREBY FURTHER ORDERED that a Declaratory Judgment be entered in favor of
7 Polymer80 and against Defendants; to wit,

8 IT IS HEREBY FURTHER ORDERED, DECREED AND DECLARED that Section 3 and
9 Section 3.5 AB 286 are unconstitutionally vague and violate the Due Process Clause of the Nevada
10 State Constitution.

11 IT IS HEREBY FURTHER ORDERED that a Permanent Injunction be entered in favor of
12 Polymer80 and against Defendants; to wit,

13 IT IS HEREBY ORDERED that the State of Nevada and Defendants, STEPHEN SISOLAK,
14 Governor of Nevada, AARON FORD, Attorney General of Nevada, GEORGE TOGLIATTI,
15 Director of the Nevada Department of Public Safety, MINDY MCKAY, Administrator of the
16 Records, Communications, and Compliance Division of the Nevada Department of Public Safety,
17 and their respective successors, officers, agents, servants, and employees and anyone acting in
18 concert with them, individually and/or collectively, are hereby permanently enjoined from enforcing
19 Section 3 and Section 3.5 of AB 286.

20 IT IS HEREBY FURTHER ORDERED that the security Polymer80 previously posted with
21 this Court pursuant to NRCP 65(c) in the amount of \$20,000.00 (Twenty Thousand Dollars) be
22 exonerated and released to Polymer80 forthwith.

23 THIS IS A FINAL JUDGMENT.

24 DATED this 10th day of December, 2021.

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JOHN P. SCHLEGELMILCH,
DISTRICT JUDGE

1 Case No. 21-CV-00690

2 Dept. No. I

3 **Certificate of Mailing**

4 I hereby certify that I, Andrew C. Nelson, am an employee of the Third Judicial District
5 Court, and that on this date pursuant to NRCP 5(b), a true copy of the foregoing document was
6 mailed at Yerington, Nevada addressed to:

7 Gregory L. Zunino, Esq.
8 **Emailed: gzunino@ag.nv.gov*

9 Brad M. Johnston, Esq.
10 **Emailed: bjohnston@shjnevada.com*


11 James J. McGuire, Esq.
12 **Emailed: james.mcguire@gmlaw.com*

13 Michael Patrick, Esq.
14 **Emailed: michael.patrick@gmlaw.com*

15 Mark Doerr
16 **Emailed: mark.doerr@gmlaw.com*

17 Craig A. Newby, Esq.
18 **Emailed: CNewby@ag.nv.gov*

19 DATED: This 10th day of December, 2021.

21 
22 Employee of Hon. John P. Schlegelmilch

23

24

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Case Summary

Aaron D. Ford Attorney General, POLYMER80, INC., STEPHEN SISOLAK, GOVERNOR OF NEVADA, GEORGE TOGLIATTI, DIRECTOR OF THE NEVADA DEPARTMENT OF PUBLIC SAFETY, MINDY MCKAY, ADMINISTRATOR OF THE RECORDS, COMMUNICATION, AND COMPLIANCE DIVISION OF THE NEVADA DEP

Case Number: 21-CV-00690

Agency: Third Judicial District Court

Type: Other Civil Matters

Received Date: 6/22/2021

Status: Closed

Status Date: 12/10/2021

Involvements

Primary Involvements

STEPHEN SISOLAK, GOVERNOR OF NEVADA Defendant
Ford, Aaron D. Attorney General - AFORD Defendant
GEORGE TOGLIATTI, DIRECTOR OF THE NEVADA
DEPARTMENT OF PUBLIC SAFETY Defendant
MINDY MCKAY, ADMINISTRATOR OF THE RECORDS,
COMMUNICATION, AND COMPLIANCE DIVISION OF THE
NEVADA DEPARTMENT OF PUBLIC SAFETY Defendant
POLYMER80, INC. Plaintiff

Other Involvements

Doerr, Mark T. Esq. Plaintiff's Attorney
Zunino, Gregory L. Deputy Solicitor General Defendant's
Attorney
McGuire, James J. Esq. Plaintiff's Attorney
Johnston, Brad M. Esq. Plaintiff's Attorney
Third Judicial District Court (21-CV-00690)
Schlegelmilch, John P. - JPS Dept I - TJDC

2. NRCP ~ RELATED PARTY

Lead/Active: False

3. NRCP ~ RELATED PARTY

Lead/Active: False

4. NRCP ~ RELATED PARTY

Lead/Active: False

5. NRCP ~ RELATED PARTY

Lead/Active: False

Other Civil Matters

1. NRCP 3 ~ COMPLAINT

Lead/Active: True

Case Status History

6/22/2021 3:33:00 PM | Open

12/10/2021 3:33:00 PM | Closed

Events

7/14/2021 9:30:00 AM | Evidentiary Hearing | DEPT I 21-CV-00690 | Court Room B

Andersen, Andrea Deputy Clerk -
AANDERSEN

Terhune, Kathy

Staff - STAFF

Court Room B - CourtRmB

Geurts, Patrick Bailiff - X004896

Schlegelmilch, John P. - JPS (Dept I -
TJDC)

Zunino, Gregory L. Deputy Solicitor
General (Defendant's Attorney)
obo Defendant

McGuire, James J. Esq. (Plaintiff's
Attorney)
obo Plaintiff

Doerr, Mark T. Esq. (Plaintiff's Attorney)
obo Plaintiff

Johnston, Brad M. Esq. (Plaintiff's
Attorney)
obo Plaintiff

Notes: Court advised counsel the Court has reviewed all pleadings in this matter. Mr. McGuire and Mr. Zunino argued the matter. Court finds the definitions to be vague. Court finds a likelihood of success on the merits. Court finds it is unclear as to what the legislature meant by blank casting or machine body. Court finds clearly, the business may be impacted as the making, selling and offering in Nevada would be a substantial hardship on Plaintiff. Based upon hardship, Court finds plaintiff has a standing as they are unable to conduct business as commonly done in the past. Court finds probably irreparable injury to conduct business. Court finds legislature, in regard to the use of limited definitions from the gun control act were done so purposely to create vagueness in the laws. Court is unconvinced that the Plaintiff's could just start serializing the frames/receivers as defined in the statute. Court ordered Plaintiff pay a security bond of \$20,000.00 within five (5) business days. Plaintiff's may pay bond via cash to the Clerk of the Court. Court entered injunction pursuant to 3.5 AB286 to the enforcement by the State of Nevada. Injunction is not entered pursuant to section three (3) 3 of AB286. Court finds matter does not become effective until 2022. Court noted sections four (4) and five (5) are not an issue as they are not before the Court. Pursuant to sections four (4) and five (5) it is illegal for a Nevadan to own, possess or manufacture without a serial number. Injunction in effect pending final determination. Bench Trial set for November 30, 2021 through December 3, 2021. Discovery opens today and closes November 1, 2021. Court waived early Case Conference disclosures. Initial expert disclosures due August 20, 2021. Rebuttal expert disclosures due September 20, 2021. Motion in Limine or Motion for Summary Judgment due November 8, 2021. Trial statements are to be filed pursuant to TJDCR. No settlement conference. Plaintiff to prepare Order regarding Injunction. Status Conference set for October 25, 2021 @ 1:30 p.m. Parties may appear via Zoom for the October 25, 2021 hearing. Court to issue Scheduling Order.

10/6/2021 1:30:00 PM | Motion Hearing | 21-CV-00690 Dept I | Court Room B

Thomas, Kathy Dep. Clerk - KTHOMAS

Staff - STAFF

Clerk - CLERK

lawclerk1 - LAW1

Rye, Cheri - Bailiff

Schlegelmilch, John P. - JPS (Dept I -
TJDC)

Notes: Hearing on Motion For Stay Pending Appeal. Court heard argument and statements of counsel . Court Denied the motion for stay. A motion for summary judgment may be filed at any time. If there is a motion filed It may be heard fairly soon. Parties may request to appear by zoom at the Status hearing on October 25, 2021.

Case Summary

Counsel for the Plaintiff will prepare the Order for the hearing today.

10/25/2021 1:30:00 PM | Status Hearing | DEPT I 21-CV-00690 | Court Room B

Terhune, Kathy

Staff - STAFF

Court Room B - CourtRmB

Tovar, Victoria Deputy Clerk - VTOVAR

lawclerk1 - LAW1

Schlegelmilch, John P. - JPS (Dept I - TJDC)

Johnston, Brad M. Esq. (Plaintiff's Attorney)

McGuire, James J. Esq. (Plaintiff's Attorney)

Doerr, Mark T. Esq. (Plaintiff's Attorney)

via Zoom

Notes: Kevin Powers and Michael Patrick also appeared via Zoom. Kiel Ireland, Esq. appeared on behalf of Attorney General's office. Mr. Powers and Mr. McGuire argued matter. Court finds claim of sovereign immunity does not apply and claim of legislative immunity does not apply to statements made outside legitimate legislative function and activity; finds statements made to Nevada public radio were not within sphere of legitimate legislative activity; stated Nevada's discovery statutes were amended to change hugely broad definition of Nevada discovery to less broad standard; finds statements made outside legislative house have not shown they are privileged statements; and finds statements made in public are basically public speech. Court granted protective order for Assemblywoman and quashed subpoena. Court granted motion at this time and finds not particularly relevant to this matter. Mr. Powers to prepare order. Court advised will set up discovery conference. Mr. Ireland addressed discovery concerns. Court ordered counsel meet and confer on discovery issues within next day; advised Mr. Ireland can file opposition to Mr. Johnston's letter to Court by Wednesday, October 27, 2021; and advised counsel to notify Court if unable to reach agreement on matter. Mr. McGuire and Mr. Ireland advised plan to file motions for summary judgment. Court advised counsel to meet and confer on motions and to notify Court of decision. Court ordered trial disclosures due November 5, 2021; ordered motions for summary judgment to double as pre-trial statement memorandums and to include witness lists, trial exhibit lists, and any objections; ordered joint memorandums be filed by November 29, 2021 by 12:00 p.m.; and ordered motions in limine due by November 15, 2021. Court advised counsel to have five (5) sets of exhibits (1 for clerk, 1 for judge, 1 for witness, 1 for opposing counsel, and 1 for themselves) and to have exhibits pre-marked before trial.

11/23/2021 1:30:00 PM | Motion Hearing | 21-CV-00690 | Court Room B

Thomas, Kathy Dep. Clerk - KTHOMAS

Terhune, Kathy

Staff - STAFF

Clerk - CLERK

Rye, Cherie

lawclerk1 - LAW1

Newby, Craig Esq.

Schlegelmilch, John P. - JPS (Dept I - TJDC)

McGuire, James J. Esq. (Plaintiff's Attorney)

Johnston, Brad M. Esq. (Plaintiff's Attorney)

Via Zoom

Notes: Hearing on Motions for Summary Judgment. Court heard argument of Counsel. Court Ordered: The Court finds that Section 3 and 3.5 of AB 286 are unconstitutionally vague. It fails to provide a person of ordinary intelligence as to what conduct is being prohibited. Section 3 and Section 3.5 AB 286 are unconstitutionally vague and violate the Due process Clause. It fails to allow a citizen notice of law so they can conform their conduct. The plaintiff's motion for Summary Judgment is granted and the Defendant's Motion for Summary Judgment is denied. Declaratory Judgment is entered in favor of Polymer80 and against Defendants. The State of Nevada & the Defendants are permanently enjoined from enforcing Section 3 and Section 3.5 of AB 286.

DISTRICT COURT CIVIL COVER SHEET

LYON County, Nevada

Case No. 21-CV-00690
(Assigned by Clerk's Office)

Dept. I

2021 JUN 22 PM 3:48

TANYA BEECHER
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

V.T. DEPUTY

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
POLYMER80, INC. 134 LAKES BLVD. DAYTON, NV 89403 (800-517-1243)	GOV. STEVE SISOLAK, 101 N. CARSON ST., CARSON CITY, NV 89701 A.G. AARON FORD, 100 N. CARSON ST., CARSON CITY, NV 89701 Dir. Togliatti and Admin. Mindy McKay, NV Dept. Public Safety, 555 WRIGHT WAY, CARSON CITY, NV 89711
Attorney (name/address/phone):	Attorney (name/address/phone):
BRAD M. JOHNSTON SIMONS HALL JOHNSTON PC 22 STATE ROUTE 208, YERINGTON, NV 89447 (775-463-9500)	

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types		
<p>Real Property</p> <p>Landlord/Tenant</p> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <p>Title to Property</p> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <p>Other Real Property</p> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<p>Negligence</p> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <p>Malpractice</p> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<p>Torts</p> <p>Other Torts</p> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
<p>Probate</p> <p>Probate (select case type and estate value)</p> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Surviving Spouse <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <p>Estate Value</p> <input type="checkbox"/> Greater than \$300,000 <input type="checkbox"/> \$200,000-\$300,000 <input type="checkbox"/> \$100,001-\$199,999 <input type="checkbox"/> \$25,001-\$100,000 <input type="checkbox"/> \$20,001-\$25,000 <input type="checkbox"/> \$2,501-20,000 <input type="checkbox"/> \$2,500 or less	<p>Construction Defect & Contract</p> <p>Construction Defect</p> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <p>Contract Case</p> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<p>Judicial Review/Appeal</p> <p>Judicial Review</p> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <p>Nevada State Agency Appeal</p> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <p>Appeal Other</p> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<p>Civil Writ</p> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrantum <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		<p>Other Civil Filing</p> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

June 22, 2021

Date

Signature of initiating party or representative

See other side for family-related case filings.