

Cooper & Kirk

Lawyers

A Professional Limited Liability Company

David H. Thompson
dthompson@cooperkirk.com

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

(202) 220-9600
Fax (202) 220-9601

October 1, 2024

Honorable Scott S. Harris, Clerk
Supreme Court of the United States
1 First St. NE
Washington, D.C. 20543

Re: Merrick B. Garland, Attorney General, et al. v. Jennifer VanDerStok, et al., No. 23-852

Dear Mr. Harris,

I write briefly to address the Government's letter regarding the Polymer80 PF940C. The Government's letter implicitly acknowledges that the PF940C frame precursor that ATF classified as not a firearm in 2017 had the same machining as the PF940C frame precursor that ATF classified as a firearm in 2022. Both classification letters assessed the machining on the PF940C, with divergent results. *Compare* JA103–04 *with* Appendix, Doc. 159 at 52–53, 55 (N.D. Tex. Jan. 1, 2023). No mention was made in the 2022 classification letter of using the Locking Block Rail System or Rear Rail Module for indexing. Polymer80's instructions for machining the PF940C likewise do not suggest using those items for indexing, JA160–188, and it is not readily apparent that it would be feasible to use them in that manner. Further, nothing in the 2022 classification letter indicates that the result would have been different if the PF940C were not sold with the Locking Block Rail System or Rear Rail Module. Rather, the classification letter states that the examined "partially complete frames ... are, by themselves, 'frames' and 'firearms' as defined in the GCA," Doc. 159 at 59, whether or not "sold within parts kits," *id.* at 50; *see also id.* at 58. To be clear, the "PF940C Pistol Frame Lower" is the frame precursor; the Locking Block Rail System and Rear Rail Module are listed by Polymer80 as separate parts within a kit. *See* JA165. To be sure, the 2017 classification letter states that the PF940C was "[i]ncapable of accepting Glock locking-block." JA104. But the classification letter does not state that the PF940C was incapable of accepting a Glock locking-block at all, but instead that as submitted to ATF for evaluation it was "not yet" capable of doing so. JA103–04 (emphasis omitted). In any event, regardless of whether the PF940C can be machined to accept a Glock locking block, the salient point is that it cannot accept any locking block—including that associated with the Locking Block Rail System—unless and until machining operations are performed by the end user.

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Lawyers

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Sincerely,

s/ David H. Thompson
David H. Thompson
COOPER & KIRK PLLC
1523 New Hampshire Ave., N.W.
Washington, DC 20036
dthompson@cooperkirk.com
Tel: (202) 220-9600
Fax: (202) 220-9601

*Attorney for Respondents
VanDerStok, Andren, Tactical
Machining, and Firearms Policy
Coalition, Inc.*

cc: See Attached Service List

SERVICE LIST

ELIZABETH B. PRELOGAR
UNITED STATES DEPARTMENT OF JUSTICE
950 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20530
SUPREMECTBRIEFS@USDOJ.GOV

BRIAN A. ABBAS
MOUNTAIN STATES LEGAL FOUNDATION
2596 S. LEWIS WAY
LAKEWOOD, CO 80227
303-292-2021
BABBAS@MSLEGAL.ORG

JOSEPH CHRISTOPHER AMRHEIN, JR.
ASHCROFT LAW FIRM, LLC
200 STATE STREET
7TH FLOOR BOSTON, MA 02109
617-573-9400
CAMRHEIN@ASHCROFTLAWFIRM.COM

H. CHRISTOPHER BARTOLOMUCCI
SCHAERR | JAFFE LLP
1717 K STREET NW, SUITE 900
WASHINGTON,, DC 20006
202-787-1060
CBARTOLOMUCCI@SCHAERR-JAFFE.COM

BRADLEY A. BENBROOK
BENBROOK LAW GROUP,
PC 701 UNIVERSITY AVE.,
STE. 106
SACRAMENTO, CA 95825
916-477-4900
BRAD@BENBROOKLAWGROUP.COM

CONNOR MCCARTHY BLAIR
BRADLEY ARANT BOULT CUMMINGS, LLP
1221 BROADWAY
SUITE 700
NASHVILLE, TN 37203
615-252-3887
CBLAIR@BRADLEY.COM

J. MARK BREWER
BREWER & PRITCHARD, PC 800 BERING DRIVE
SUITE 201
HOUSTON, TX 77057
713-209-2950
BREWER@BPLAW.COM

JOHN M. CASTELLANO
ASSISTANT DISTRICT ATTORNEY
QUEENS COUNTY DISTRICT ATTORNEY'S OFFICE
125-01 QUEENS BOULEVARD KEW GARDENS,
NY 11415 718-286-5801
IMCASTELLANO@QUEENSDA.ORG

RICHARD BRENT COOPER
COOPER & SCULLY, PC
900 JACKSON STREET
SUITE 100
DALLAS, TX 75202
214-712-9500
BRENT.COOPER@COOPERSULLY.COM
214-712-9540(Fax)

LEE ROSS CRAIN
GIBSON, DUNN & CRUTCHER LLP
200 PARK AVENUE
NEW YORK, NY 10166
212-351-2454
LCRAIN@GIBSONDUNN.COM

DENNIS DANIELS
BRADLEY ARANT BOULT CUMMINGS, LLP
1445 ROSS AVENUE
SUITE 3600
FOUNTAIN PLACE DALLAS, TX 75202
214-257-9846
DLDANIELS@BRADLEY.COM

MICHAEL J. DELL
KRAMER LEVIN NAFTAILS & FRANKEL LLP
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-2714
212-715-9129
MDELL@KRAMERLEVIN.COM

STEPHEN M. DUVERNAY
BENBROOK LAW GROUP
701 UNIVERSITY AVE.,
SUITE 106
SACRAMENTO, CA 95825
916-447-4900
STEVE@BENBROOKLAWGROUP.COM

JOHN A. EIDSMOE
FOUNDATION FOR MORAL LAW ONE DEXTER AVENUE MONTGOMERY,
AL 36104
334-262-1245
EIDSMOEJA@JUNO.COM

MARK C. FLEMING
WILMER CUTLER PICKERING HALE & DORR LLP
60 STATE STREET
BOSTON, MA 02109
617-526-6909
MARK.FLEMING@WILMERHALE.COM

CHARLES FLORES
FLORES LAW, PLLC
917 FRANKLIN STREET
SUITE 600
HOUSTON, TX 77002
713-364-6440
CF@CHADFLORES.LAW

BRIANNE J. GOROD
CONSTITUTIONAL ACCOUNTABILITY CENTER
1200 18TH STREET NW, SUITE 501
WASHINGTON, DC 20036
202-296-6889
BRIANNE@THEUSCONSTITUTION.ORG

JOSEPH G.S. GREENLEE
NATIONAL RIFLE ASSOCIATION FOR OF AMERICA - INSTITUTE
LEGISLATIVE ACTION
11250 WAPLES MILL RD. FAIRFAX, VA 22030
703-267-1161
MAILTO:JGREENLEE@NRAHQ.ORG

DANIEL GROOMS COOLEY LLP
1299 PENNSYLVANIA AVE
WASHINGTON, DC 20001

JOHN I. HARRIS III
SCHULMAN, LEROY & BENNETT, P.C.
3310 W. END AE., STE. 460
NASHVILLE, TN 37203
615-244-6670
JHARRIS@SLBLAWFIRM.COM

KATHLEEN R. HARTNETT
COOLEY LLP
3 EMBARCADERO CENTER
20TH FLOOR
SAN FRANCISCO, CA 94111-4004
415-693-2000
KHARTNETT@COOLEY.COM

TIMOTHY C. HESTER
COVINGTON & BURLING LLP
ONE CITYCENTER
850 TENTH STREET, NW.
WASHINGTON, DC 20001
202-662-6000
THESTER@COV.COM

AMANDA KELLAR KARRAS
INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION
51 MONROE STREET
STE. 404
ROCKVILLE, MD 20850
202-466-5424
AKELLAR@IMLA.ORG

JOHN J. KORZEN
WAKE FOREST UNIV. SCHOOL OF LAW
APPELLATE ADVOCACY CLINIC
POST OFFICE BOX 7206
REYNOLDA STATION WINSTON-SALEM, NC 27109
336-758-5832
KORZENJJ@WFU.EDU

MARY B. MCCORD
INSTITUTE FOR CONSTITUTIONAL ADVOCACY AND PROTECTION
GEORGETOWN UNIVERSITY LAW CENTER
600 NEW JERSEY AVENUE, NW
WASHINGTON , DC 20001
202-661-6607
MBM7@GEORGETOWN.EDU

ERIN E. MURPHY
CLEMENT & MURPHY, PLLC
706 DUKE STREET
ALEXANDRIA, VA 22314
202-742-8900
ERIN.MURPHY@CLEMENTMURPHY.COM

STEPHEN J. OBERMEIER
WILEY REIN LLP
2050 M STREET NW
WASHINGTON, DC 20036
202-719-7000
SOBERMEIER@WILEY.LAW

DAN M. PETERSON
DAN E. PETERSON PLLC
3925 CHAIN BRIDGE ROAD SUITE 403
FAIRFAX, VA 22030
703-352-7276
DAN@DANPETERSONLAW.COM

BRIAN DANIEL POE
BRIAN D. POE, ATTORNEY AT LAW PLLC
909 THROCKMORTON STREET
THE BRYCE BUILDING
FORT WORTH, TX 76102-0000
817-870-2022
BPOE@BPOELAW.COM

JAMES WALLACE PORTER, III
BRADLEY ARANT BOULT CUMMINGS, LLP
1819 5TH AVENUE, N.
1 FEDERAL PLACE
BIRMINGHAM, AL 35203-2119
205-521-8285
JPORTER@BRADLEY.COM
205-488-6285(Fax)

ROBERT M. RADICK
MORVILLO ABRAMOWITZ GRAND LASON & ANELLO PC
565 FIFTH AVENUE NEW YORK,
NY 10017 212-865-9600
RRADICK@MAGLAW.COM

LEE S. RICHARDS
RICHARD KIBBE & ORBE LLP ONE WORLD FINANCIAL CENTER
NEW YORK, NY 10281-1003
212-530-1800
LRICHARDS@RKOLLP.COM

MATTHEW JOSEPH SMID
EVANS, DANIEL, MOORE, EVANS, BIGGS & SMID
301 COMMERCE STREET
SUITE 2001
FORT WORTH, TX 76102
817-332-3822
MATT@MATTSMIDLAW.COM
817-332-2763(Fax)

JOHN PARKER SWEENEY
BRADLEY ARANT BOULT CUMMINGS, LLP
1615 L STREET, NW
SUITE 1350
WASHINGTON, DC 20036
202-719-8216
JSWEENEY@BRADLEY.COM
202-719-8313(Fax)

CAROLINE S. VAN ZILE SOLICITOR GENERAL
OFFICE OF THE ATTORNEY GENERAL
400 6TH ST., NW
SUITE 8100
WASHINGTON, DC 20001 CAROLINE.VANZILE@DC.GOV

DAVID A. WARRINGTON
DHILLON LAW GROUP, INC. 2121 EISENHOWER AVENUE,
SUITE 608
ALEXANDRIA, VA 22314
703-574-1206
DWARRINGTON@DHILLONLAW.COM

MICHAEL R. WILLIAMS SOLICITOR GENERAL
OFFICE OF THE WEST VIRGINIA ATTORNEY GENERAL
STATE CAPITOL COMPLEX BUILDING 1,
ROOM E-26 CHARLESTON, WV 25305
304-558-2021
MWILLIAMS@WVAGO.GOV

CODY J. WISNIEWSKI
FIREARMS POLICY COALITION ACTION FOUNDATION
5550 PAINTED MIRAGE ROAD SUITE 320
LAS VEGAS, NV 89149
916-517-1665
916-476-2392(Fax)
CWI@FPCHQ.ORG

STEVEN C. WU
NY CNTY. DISTRICT ATTORNEY'S OFFICE
ONE HOGAN PLACE
NEW YORK , NY 10013
WUS@DANY.NYC.GOV