

**IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

DISTRICT OF COLUMBIA,	)	
Plaintiff,	)	
v.	)	Case No. 2020 CA 002878 B
POLYMER80, INC.,	)	Judge William M. Jackson
Defendant.	)	

**ORDER DENYING MOTION TO DISMISS**

This matter is before the Court on Defendant Polymer80, Inc.’s Motion to Dismiss. In the motion, the defendant move to dismiss the Complaint on grounds that the Court lacks personal jurisdiction over the defendant. Plaintiff filed an opposition, and the defendants then filed a reply. Upon consideration of the motions, the opposition, the reply, the and the entire record herein, the Court denies the motion to dismiss.

**I. BACKGROUND**

In the Complaint, the District of Columbia alleges that the defendant Polymer80, Inc. violated the District of Columbia Consumer Protection Procedures Act. The District alleges that the defendant misleadingly advertises and sells and provides illegal firearms to consumers in the District. These products sold allegedly lack serial numbers, are untraceable, and are commonly known as “Ghost Guns,” which are increasingly used to commit crimes in the District. Compl. ¶ 1. According to the District, the defendant informs consumers that they can legally purchase and possess the products because the guns are no more than 80% complete, and therefore do not constitute a firearm under federal law. Compl. ¶ 2. As a result, the District brought the instant action alleging two separate counts against the defendant. First, for misrepresentations and omissions in violation of the District of Columbia Consumer Protection Procedures Act (“DC

CPPA”). Compl. ¶¶ 35-46. Second, for violating the District’s Gun Laws also in violation of the DC CPPA. Compl. ¶¶ 47-51.

In the motion, the defendant contends that the Court lacks personal jurisdiction over the defendant, therefore the Complaint should be dismissed under Rule 12(b)(2). Specifically, the defendant contends that the plaintiff has failed to identify which portion of the long-arm statute that confers personal jurisdiction over the defendant; failed to plead factual allegations linking defendant with Washington, D.C.; and failed to plead a sufficient basis for this Court to find personal jurisdiction over the defendant due to the plaintiff’s scattered, generalized, and inconsequential allegations. In response, the plaintiff asserts that the District’s long-arm statute does authorize specific personal jurisdiction over the defendant; that the defendant has sufficient minimum contacts with the District to satisfy due process; and that exercising jurisdiction over the defendant comports with fair play and substantial justice. The Court agrees with the plaintiff.

## II. LEGAL STANDARD

The plaintiff has the burden of proving the court has personal jurisdiction. *Holder v. Haarmann & Reimer Corp.*, 779 A.2d 264, 268 (D.C. 2004). “When ruling upon personal jurisdiction without an evidentiary hearing, a court ordinarily demands only a prima facie showing by the plaintiffs.” *Companhia Brasileria Carbureto De Calcio v. Applied Indus. Materials Corp.*, 35 A.3d 1127, 1136 (D.C. 2012); *see also Mwani v. bin Laden*, 417 F.3d 1, 6 (D.C. 2005). If the court takes evidence on the issue, a heightened, preponderance of the evidence standard applies. *Id.*; *see also Am. Inst for Truth in Adver., Inc. v. Vitacommerce, Inc.*, 2018 D.C. Super. LEXIS 2 \*4 (D.C. Super. Ct. 2018).

This Court’s exercise of personal jurisdiction over a nonresident defendant must satisfy the two part inquiry of both the District of Columbia long-arm statute and the Due Process

Clause. See *Env'tl. Research Int'l, Inc. v. Lockwood Greene Engineers, Inc.*, 335 A.2d 808 (D.C. 1976). The Due Process Clause and “traditional notions of fair play and substantial justice” require that there must be “minimum contacts” between the defendant and the forum state in order for the forum state to exercise specific personal jurisdiction over a defendant. *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). Moreover, “Due process requires...that in order to subject a defendant to a judgment *in personam*, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend ‘traditional notions of fair play and substantial justice.’” *Id.* Further, there are two principles governing a due process analysis: “(1) the foreseeability that is critical...is that the defendant’s conduct and connection with the forum State are such that he should reasonably anticipate being haled into court there”; and (2) when a corporation purposefully avails itself of the privilege of conducting activities within the forum State.” *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297 (1980).

Under the relevant portions of the District of Columbia long-arm statute, specifically D.C. Code § 13-423(a), a District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising from the person’s – (1) transacting any business in the District of Columbia...[or] (3) causing tortious injury in the District of Columbia by an act or omission in the District of Columbia.

### **III. ANALYSIS**

As stated, under D.C. Code § 13-423(a)(1), District of Columbia court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a claim for relief arising from the person’s – (1) transacting any business in the District of Columbia. As stated in *Shoppers Food Warehouse v. Moreno*, D.C. Code § 13-423(a)(1) is coextensive in reach with the

personal jurisdiction allowed by the due process clause of the United States Constitution. 746 A.2d 320, 329. There are no “mechanical tests” or “talismanic formulas” for the determination of personal jurisdiction under D.C. Code § 13-423(a)(1) and (b), and the facts of each case must be weighed against notions of fairness, reasonableness and substantial justice. *Id.* Further, “the only nexus required by D.C. Code § 13-423(a)(1) between the District of Columbia and a nonresident defendant is some affirmative act by which the defendant brings itself within the jurisdiction and establishes minimum contacts.” *Id.* at 326.

Courts examining a nonresident defendant’s contact with the District are to focus on whether the nonresident defendant purposefully directed its activities at District residents, and whether the claims against the defendant arise out of or have a substantial connection with business transacted in the District. *Id.* at 329. However, “if the contacts with a forum state are “random, isolated, or fortuitous,” due process requirements are not satisfied for personal jurisdiction purposes. *Id.* at 327. For proper jurisdiction, therefore, the long-arm statute requires that the claim raised have a discernible relationship to the "business" transacted in the District . . . . The critical test is whether the nonresident's "conduct and connection with the forum state are such that he [or she] should reasonably anticipate being haled into court there." *Id.* at 329.

“In keeping with ‘traditional notions of fair play and substantial justice,’ there must be ‘minimum contacts’ between a defendant and the forum state before personal jurisdiction can be exercised consistently with due process.” *Shoppers*, 746 A.2d at 325. “A plaintiff’s unilateral activity in relation to a defendant cannot alone sustain personal jurisdiction under the ‘minimum contacts’ theory.” *Id.* (citing *Hanson v. Denckla*, 357 U.S. 235, 253 (1958)). “One of the indices of "fairness" and "reasonableness" of the exercise of personal jurisdiction by the forum state is whether the defendant purposefully availed itself of the "benefits and protections" of the forum

state's laws, and thus, could reasonably have anticipated being haled before a court in that jurisdiction.” *Shoppers*, 746 A.2d at 325 (citing *Kulko v. Superior Court of Cal.*, 436 U.S. 84, 94 (1978)).

Here, the defendant’s website sells firearms to consumers across the United States, and the District of Columbia is no exception. While the defendant states that it does not specifically target residents in the District, if viewed in the light most favorable to the plaintiff, the plaintiff has sufficiently alleged that the defendant has offered to sell or supply its products to those across the United States. Compl. at ¶ 39. The defendant has consistently made sales in the District, not to mention the defendant’s products constitutes an overwhelming 83.2% of the Ghost Guns recovered by District law enforcement since 2017. Compl. at ¶ 1. In fact, nearly 100 firearms sold by the defendant were recovered during the first five months of 2020 alone. The record also reflects affidavits from investigators that the District’s consumers can easily access defendant’s website and purchase firearms for delivery in the District. *See* Pl’s Opp’n at Ex. A, Ex. C, Ex. F. The defendant also does not dispute that it sells and delivers its firearms in the District of Columbia. With regards to minimum contacts, as the plaintiff pointed out, importantly, the extent to which the defendant’s firearms have been recovered in the District underscores the defendant’s contact with this forum. Furthermore, the defendants do advertise to consumers in the District claiming that their products are legal to purchase and possess and the ability to buy and receive a Polymer80 in the District is very telling. For those reasons, the Court finds that an exacting nexus exists between this case and the District of Columbia and therefore exerting jurisdiction over the defendant in this case comports with both Due Process requirements and D.C. Code § 13-423(a)(1).<sup>1</sup>

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<sup>1</sup> Having established jurisdiction under D.C. Code § 13-423(a)(1), the Court need not address whether this Court has jurisdiction over this case under D.C. Code § 13-423(a)(3).

Lastly, in reviewing fairness, the facts easily satisfy the standards for fairness. The defendant contends that this analysis is supposed to be narrowed for companies that conduct their business online. However, utilizing the internet does not equate with avoiding jurisdiction with any Court in the country simply because there are no brick and mortar stores involved in the process. As the plaintiff pointed out, there have been numerous times where our Courts has had no issue finding specific jurisdiction over nonresident defendants who conducted business with consumers over the internet. In conclusion, the defendant's motion to dismiss is denied as the Court finds that personal jurisdiction can be established over the defendant.

Therefore, on this **22<sup>nd</sup> Day of June, 2021**, it is

**ORDERED** that Defendant Polymer80, Inc.'s Motion to Dismiss is **DENIED**.

**SO ORDERED.**



**William M. Jackson**  
**Associate Judge**  
**(Signed in Chambers)**

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