No. 132415

IN THE
SUPREME COURT OF ILLINOIS

KEELY ROBERTS, individually and as parent and next friend of C.R. and L.R., and JASON ROBERTS, individually and as parent and next friend of C.R. and L.R.,	On Petition for Leave to Appeal from the Appellate Court of Illinois, Second District, in Action No. 2-25-0275
Plaintiffs-Respondents,	There heard from the Circuit Court of Lake County, Illinois, County Department, Law Division;
v.	
Budsgunshop.com, LLC,	No. 22 LA 00000487
Defendant-Petitioner,	Consolidated with Case Nos. 22 LA 00000488, 22 LA 00000489, 22 LA 00000490, 22 LA 00000491, 22 LA 00000492, 22 LA 00000493, 22 LA 00000494, 22 LA 00000495, 22 LA 00000496, 22 LA 00000497, 22 LA 00000532, 24 LA 00000201, 24 LA 00000203, 24 LA 00000206, 24 LA 00000466, 24 LA 00000471, 24 LA 00000474, 24 LA 00000475, 24 LA 00000476, 24 LA 00000477 24 LA 00000478, 24 LA 00000479, 24 LA 00000480, 24 LA 00000481
and	
Smith & Wesson Brands, Inc., Smith & Wesson Sales Company, Smith & Wesson, Inc., Red Dot Arms, Inc., Robert Crimo, Jr., and Robert Crimo, III,	
Defendants.	The Honorable Judge Jorge L. Ortiz, Judge Presiding.

ANSWER TO PETITION FOR LEAVE TO APPEAL

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INTRODUCTION

Plaintiffs in these consolidated cases are victims of the Highland Park mass shooting and their family members. On July 4, 2022, the shooter—armed with a Smith & Wesson assault weapon sold to him by Bud's Gun Shop ("Bud's")—killed 7 people and injured 48 others in a shooting that has forever scarred an entire community. Bud's sold the shooter that assault weapon knowing full well that it was illegal to possess the weapon where he lived. Plaintiffs have therefore brought claims against Bud's for knowingly aiding and abetting the shooter's illegal possession of the weapon.[1]

To avoid accountability for its illegal conduct, Bud's now seeks the extraordinary remedy of interlocutory review of the circuit court's denial of its motion to dismiss and the appellate court's decision not to review one certified question. In its petition, Bud's recycles arguments that both courts rejected and attempts to manufacture a novel question related to the Protection of Lawful Commerce in Arms Act, 15 U.S.C. § 7901, *et seq.* ("PLCAA"). But Bud's entirely fails to demonstrate how its petition meets the factors in Illinois Supreme Court Rule 315: the decision at issue is interlocutory; there is no conflict between the decision and a decision of this Court or any division of the appellate court; and Bud's has identified no issue that implicates this Court's supervisory authority. Nor has it justified the need for supervisory relief under Illinois Supreme Court Rule 383.

Instead, as both the circuit court and the appellate court recognized, PLCAA's plain text easily resolves the issues that Bud's raises in its petition. Attempting to get a third bite at the apple, Bud's resorts to ignoring the controlling statutory text and mischaracterizing

[1] Some Plaintiffs also brought claims against Bud's for negligent entrustment. Despite the circuit court's order permitting these claims to proceed, A.152, Bud's fails to address these claims in its petition. Bud's arguments for review would have no effect on these claims.

a recent case from the United States Supreme Court. This Court should not countenance such tactics and should deny the petition, letting the litigation proceed unimpeded.

ARGUMENT

Bud's petition concerns PLCAA, a federal statute that protects licensed firearm sellers from certain kinds of civil lawsuits where the gun store acted lawfully. *See Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 285-87 (2025). A lawsuit, however, can proceed if the gun store acted unlawfully. *Id.*; *accord* 15 U.S.C. §§ 7902(a), 7903(5)(A). The exception at issue here, known as the "predicate exception," allows a plaintiff to bring a case against a firearm seller that has "knowingly violated a *State . . . statute applicable to the sale or marketing of [firearms]*." *Id.* § 7903(5)(A)(iii) (emphasis added).

Critically, PLCAA defines "State" as "each of the several States of the United States, the District of Columbia, . . . *and any political subdivision of any such place*." *Id.* § 7903(7) (emphasis added). Further, PLCAA's predicate exception lists illustrative examples of cases that may be brought, including "any case" in which the seller aided and abetted the sale of a firearm to an individual who it knew, or had reasonable cause to believe, was prohibited from possessing it. *Id.* § 7903(5)(A)(iii)(II); *see also Estados Unidos Mexicanos*, 605 U.S. at 286-87. In other words, PLCAA explicitly allows lawsuits for selling a firearm to an individual whether there is reasonable cause to believe he or she cannot legally possess it. PLCAA's plain language also makes it clear that such laws prohibiting possession include legislation passed by municipalities. That is precisely what Plaintiffs allege: Bud's sold the shooter an assault weapon despite knowing that he resided

in Highland Park, where it was illegal to possess such a weapon under a municipal ordinance, Highland Park, Ill. Code of Ordinances § 136.005.[2]

Bud's asks for this Court's interlocutory review of three arguments concerning the predicate exception, each of which the circuit court rejected in denying Bud's motion to dismiss. After that denial, Bud's sought to certify ten questions, all but one of which the circuit court denied. A.118-19. However, the circuit court re-wrote and certified a single question under Illinois Supreme Court Rule 308 due to the absence of on-point Illinois authority:

> Whether a municipal ordinance banning the possession of certain firearms within the geographic boundaries of the enacting municipality is a "statute applicable to the sale or marketing of" firearms that takes place entirely outside of the municipality for purposes of 15 U.S.C. § 7903(5)(A)(iii)?

A.120. Before the appellate court, Plaintiffs explained why there is no substantial ground for difference of opinion justifying interlocutory review on this question, A.142, and the appellate court correctly denied review, A.1.

This Court's review is likewise unnecessary under Rule 315 or otherwise—particularly because "the review of cases at an interlocutory stage is not favored." *Rozsavolgyi v. City of Aurora*, 2017 IL 121048, ¶ 22 (quoting Ill. S. Ct. R. 318(b)) (cleaned up). Moreover, Bud's fails to show that this Court should exercise its supervisory authority or that there is a conflict between the circuit court's rulings and a decision from this Court or the appellate court. *See* Ill. S. Ct. R. 315(a). Instead, the circuit court's rulings were

[2] Plaintiffs alleged that the shooter may have resided in Highwood or Highland Park, A.9 ¶¶ 16, 28, n.5, and Bud's has since produced discovery showing that the shooter provided both Highwood and Highland Park addresses, *see* A.148 n.2. As Bud's notes, that makes no difference to this Court's analysis because both locations have identical prohibitions on assault weapons. *See* Pet. 3 n.3.

consistent with the statutory text and the applicable case law. In arguing otherwise, Bud's makes several misstatements and overstates the need for this Court's intervention.

I. This Case Does Not Present an Extraordinary Circumstance Warranting This Court's Supervisory Authority over a Non-Certified Question.

Bud's inaccurately asserts that it is simply asking this Court to review issues that the circuit court certified under Rule 308. *See* Pet. 5-6; *see also* A.129-30 (making the same misrepresentation in appellate court). However, the circuit court specifically declined to certify the first question on which Bud's seeks review: "whether the alleged violation of a municipal ordinance, as opposed to a state [or] federal statute, is capable of satisfying the predicate exception to the PLCAA?" Pet. 6; A.119. Thus, Bud's attempts a sleight of hand by claiming that the actual certified question "can be more easily understood" by breaking it down into three—including a question specifically rejected by the circuit court. Pet. 6.

In reality, then, Bud's seeks review of the circuit court's order denying its motion to dismiss on this ground, which is "neither final nor appealable." *Carmichael v. Union Pac. R.R. Co.*, 2019 IL 123853, ¶ 37. This Court would thus need to exercise its supervisory authority, which is "reserved for exceptional circumstances" and should not be used to "circumvent[] the normal appellate process." *Id.* Here, both the circuit court and the appellate court agreed that such review was unjustified, so the appropriate course is for Bud's to wait until there is a final, appealable judgment.

Additionally, there is no exceptional circumstance warranting departure from this normal process. As the circuit court explained in refusing to certify this question, A.119, "the plain text of the PLCAA . . . [was] the deciding factor" in its ruling that a municipal ordinance counts as a "State . . . statute" for PLCAA's predicate exception, A.82 (quoting 15 U.S.C. § 7903(5)(A)(iii)). PLCAA's plain text defines the term "State" (which modifies

"statute") in relevant part to mean "each of the several States of the United States, . . . *and any political subdivision of any such place*." *Id.* § 7903(7) (emphasis added). A municipality is "a political subdivision of the State from which its authority derives." *United Bldg. & Const. Trades Council of Camden Cnty. & Vicinity v. Mayor & Council of City of Camden*, 465 U.S. 208, 215 (1984). Further, even setting aside PLCAA's clear definition of "State," the ordinary meaning of "statute" encompasses local municipal legislation. *See Statute*, Black's Law Dictionary (12th ed. 2024) (defining "statute" as "[a] law enacted by a legislative body; specif., legislation enacted by any lawmaking body, such as a legislature, administrative board, or municipal court"). Thus, legislation passed by a municipality such as Highwood or Highland Park—"political subdivision[s] of" Illinois—qualifies as a predicate statute.

Contrary to Bud's arguments, this result wholly accords with Illinois law. In *Landis v. Marc Realty, LLC*, this Court held that, absent alternative indication from the legislature, the term "'statutory' encompasses municipal ordinances as well as state statutes." 235 Ill. 2d 1, 12 (2009). Bud's ignores this holding and bafflingly cites the dissent for what this Court "expressly held." Pet. 9-10. Additionally, pre-*Landis* cases in which this Court held in other contexts that a reference to "statutes" did not include "ordinances" did not address the relevant question here, which is what Congress meant in this context, where it explicitly defined "State." *See Dep't of Agric. Rural Dev. Rural Hous. Serv. v. Kirtz*, 601 U.S. 42, 59 (2024) ("When Congress takes the trouble to define the terms it uses, a court must respect its definitions as virtually conclusive.") (cleaned up).[3]

[3] As Plaintiffs explained in their appellate court brief, Bud's citation to irrelevant statutes and statutory provisions, *see* Pet. 8-9, do not save it from the import of PLCAA's plain language. A.156-57.

Further, Bud's overstates the import of any conflict between the circuit court's ruling and a recent decision in *Chicago v. Glock*, where another circuit court stated that a municipal ordinance does not qualify as a statute for the predicate exception. *See* Pet. 7 (citing A.171), 15. First, differences of opinion between circuit courts are not grounds for review under Rule 315(a), which instead asks whether the underlying decision conflicts with "a decision of the Supreme Court, or . . . of the Appellate Court." Ill. S. Ct. R. 315(a). Second, the observation in *Chicago v. Glock* about municipal ordinances was not necessary to the decision because the court concluded that the ordinance incorporated a state statute that itself satisfied the predicate exception and thus denied Glock's motion to dismiss. A.171-72. More importantly, the court did not address PLCAA's definition of "State" at all, and therefore did not apply the controlling statutory text. *See id.*

II. Review of the Certified Question is Unwarranted.

The predicate exception applies here because Bud's aided and abetted the shooter's violation of a Highwood (or Highland Park) ordinance banning the possession of assault weapons. A.158-64. The circuit court agreed when denying Bud's motion to dismiss based on PLCAA's plain text, A.82-83, but certified one question for interlocutory review. *See supra* p. 3. Bud's argues that the assault weapon ordinance is not "applicable to the sale or marketing of [firearms]" because: (1) the phrase does not encompass laws governing the unlawful *possession* of firearms, Pet. 10-13, and (2) the language does not include laws in jurisdictions separate from where the sale occurred, *i.e.*, there is no predicate violation here because Bud's sold the firearm outside of Highwood or Highland Park, *id.* at 13-14. As Plaintiffs explained before the appellate court, Bud's is wrong on both counts.

First, PLCAA's plain text, as confirmed by relevant case law, makes clear that the predicate exception permits claims based on aiding and abetting the illegal possession of firearms. In PLCAA, Congress provided illustrative examples of statutory violations that satisfy the predicate exception—including, as relevant here, a situation in which a gun seller "aid[s], abet[s], or conspire[s] with any other person to sell or otherwise dispose of a [firearm], knowing, or having reasonable cause to believe, that the actual buyer of the [firearm] was *prohibited from possessing* . . . a firearm." 15 U.S.C. § 7903(5)(A)(iii)(II) (emphasis added). The circuit court correctly recognized that Bud's' actions in aiding and abetting the unlawful possession of a firearm by the shooter are similar to this example and that the "plain text [of PLCAA] allow[s] aiding and abetting claims" like the one at issue here. A.83.

Unsurprisingly, every court to have examined this question has concluded that aiding and abetting unlawful firearm possession satisfies the predicate exception. *See, e.g.*, *Salter v. Meta Platforms, Inc*., 240 N.Y.S.3d 610, 618-19 (App. Div. 2025) (affirming denial of a motion to dismiss where plaintiffs alleged that the manufacturer of a magazine lock aided and abetted the shooter's unlawful possession of an assault weapon); *Brady v. Walmart Inc*., No. 8:21-cv-01412, 2022 WL 2987078, at *6-8 (D. Md. July 28, 2022) (concluding that allegations that defendants aided and abetted the violation of a Maryland statute prohibiting "the possession of a rifle or shotgun by a person that," *inter alia*, "suffers from a mental disorder" satisfied the predicate exception) (quotation marks omitted).

Second, Bud's argument that the ordinance does not govern its conduct because it is based in Kentucky is a red herring. As Bud's itself recognizes, Pet. 4 n.5, Plaintiffs do not allege that Bud's directly violated the ordinance by selling the assault weapon in

Highwood or Highland Park, but that it aided and abetted the Shooter's violation of the ordinance by selling him an assault weapon while knowing that it was illegal for the Shooter to possess the weapon where he lived. There is no doubt that a defendant can aid and abet the violation of a law by a principal that is applicable only in the principal's jurisdiction. *See, e.g.*, *People v. Govin*, 213 Ill. App. 3d 928, 934 (4th Dist. 1991) (concluding that Illinois court could hear charges that defendant, acting in Florida, aided and abetted another individual's violation of Illinois law); *Englund v. World Pawn Exchange, LLC*, No. 16-cv-00598, 2017 WL 7518923, at *2, 5 (Or. Cir. June 30, 2017) (holding that plaintiffs adequately alleged that online retailer located in Arizona aided and abetted violation of Oregon law prohibiting the provision of false information in connection with transfer of a firearm); *see also* 720 ILCS 5/1-5(a)(2), (3) (recognizing criminal liability in Illinois for out-of-state conduct that furthers the commission of an offense by another person in Illinois). Accordingly, there is no need for review on these two issues.

In reprising its arguments to try to secure this Court's review, Bud's employs a familiar tactic: it mischaracterizes the U.S. Supreme Court's recent decision in *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025). Both the circuit and appellate courts correctly rejected that strategy. A.1, 137; Supplemental Appendix to Answer (Supp. A.") at 1.[4]

[4] Bud's tried to misuse this case before both courts simultaneously—filing a motion for reconsideration based on *Estados Unidos Mexicanos* in the circuit court nearly two months after that decision was issued and after filing its application for leave to appeal in the appellate court. The circuit court properly denied this request, and that order is not at issue here. Supp. A.1.

Estados Unidos Mexicanos, properly understood, supports Plaintiffs. There, Mexico alleged that several gun manufacturers contributed to Mexico's general gun violence epidemic by aiding and abetting violations of federal gun laws. 605 U.S. at 294. The Court determined that Mexico's factual allegations did not satisfy the federal criminal aiding-and-abetting standard, which was "heighten[ed]" there because Mexico had brought systemic claims. *Id.* at 288, 294. Because the parties agreed that the underlying gun laws qualified under PLCAA's predicate exception, the Court did not need to address—and did not address—what other types of laws satisfy the predicate exception. *See id.* at 284-85, 291. Nowhere did it "indicate[] that the predicate exception can *only* be satisfied by the alleged violation of statutes *specifically* applicable to the sale or marketing of firearms," as Bud's falsely claims. Pet. 12 (emphasis added).

Nor did the Court opine on the scope of the exception by "warn[ing]" against reading the exception "broadly" as to which types of claims it permits. *Id.* The Court merely observed that if Mexico's case as pled, involving systemic allegations against most of the U.S. firearm industry for engaging in an unknown number of unidentified transactions, "fell within [the predicate exception], [it] would swallow most of the rule." *Estados Unidos Mexicanos*, 605 U.S. at 299. As the circuit court recognized in denying reconsideration based on this decision, the claims in this case are drastically different from the general claims in *Estados Unidos Mexicanos*: Plaintiffs have sued a specific gun store for aiding and abetting the illegal possession of one particular assault weapon, and this sale was a proximate cause of one specific mass shooting. *See* Supp. A.5-6 (distinguishing *Estados Unidos Mexicanos* based on Plaintiffs' "detail[ed]" and "specific" allegations that Bud's provided "substantial assistance" to the shooter in committing "specific [criminal]

actions," including by "[selling] the firearm directly to the shooter with the knowledge" that he was prohibited from possessing it and by ignoring other red flags).

Finally, in its limited discussion of the predicate exception, the Court confirmed that "the predicate violation PLCAA demands may come from aiding and abetting someone else's firearms offense." *Estados Unidos Mexicanos*, 605 U.S. at 286. It further emphasized that PLCAA's predicate exception "opens a path to making a gun manufacturer civilly liable for the way a third party has used the weapon it made." *Id.* Thus, far from helping Bud's, *Estados Unidos Mexicanos* makes it crystal clear that aiding and abetting the illegal possession of firearms qualifies as a predicate violation.

III. This Case Does Not Otherwise Warrant the Court's Immediate Review.

Having failed to show that the other Rule 315 factors favor review, Bud's claims that review is warranted at this early stage of the proceedings because it presents important questions about immunity from suit. But that alone should not justify this Court's review. Courts, including this Court, have regularly waited until later stages of the proceedings to resolve questions pertaining to a purported immunity. *See, e.g.*, *Rozsavolgyi*, 2017 IL 121048, ¶¶ 25-26 (declining review of certified question pertaining to the Local Governmental and Governmental Employees Tort Immunity Act).

For similar reasons, Bud's should not be afforded supervisory relief under Rule 383, which is "disfavored." *People ex rel. Birkett v. Bakalis*, 196 Ill. 2d 510, 513 (2001). The "normal appellate process" has already "afford[ed] adequate relief," *id.*—the parties briefed these issues at length before the appellate court, which denied interlocutory review, A.1. Bud's may be unhappy with the result, but that does not mean that there was any flaw in this ordinary process. Thus, Bud's has not shown that this Court's supervision—*i.e.*,

directing the appellate court to accept the Rule 308 appeal—is "necessary to keep an inferior tribunal from acting beyond the scope of its authority." *Birkett*, 196 Ill. 2d at 513.

CONCLUSION

Plaintiffs respectfully request that this Court deny Bud's petition for leave to appeal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify under penalties provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure (735 ILCS 5/1-109) that I caused copies of the foregoing **Answer to Petition for Leave to Appeal** to be served electronically via Odyssey eFileIL upon counsel of record for Defendant Budsgunshop.com, LLC, as listed below.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Priyanka Gupta Sen
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