

NO. 24-CI-000518

JEFFERSON CIRCUIT COURT
DIVISION SEVEN (7)
JUDGE MELISSA LOGAN BELLOWES

DANA MITCHELL, et al.,

PLAINTIFFS

V.

RIVER CITY FIREARMS, INC., et al.,

DEFENDANTS

**PLAINTIFFS' RESPONSE IN OPPOSITION TO MAGPUL INDUSTRIES
CORPORATION'S MOTION FOR JUDGMENT ON THE PLEADINGS**

For the reasons set forth herein, Plaintiffs Dana Mitchell, Julie Andersen, James E. Evans II, Stephanie Schwartz, Karen Tutt, Jessica Barrick, James M. Gilly, Jr., Maryanne Elliott, A'lia Tazhia Chambers, J'yeon Christopher Chambers, and Michael Eckert hereby request that this Court deny the Motion for Judgment on the Pleadings brought by Defendant Magpul Industries Corp.

9BF602EF-F793-47D8-8597-BA8DC45BEF3A : 000001 of 000027

REQUEST FOR ORAL ARGUMENT

Pursuant to rule 401 of the Jefferson Rules of Practice, Plaintiffs hereby request oral argument on the subject motion, to occur at the presently scheduled status conference before the Court on July 14, 2026.

INTRODUCTION

Plaintiffs, who are victims and survivors of the April 2023 mass shooting at Old National Bank in Louisville, filed these consolidated lawsuits against Defendant Magpul Industries Corporation in April 2024, for the role Magpul played in bringing about their injuries and the deaths of their loved ones. Magpul moved to dismiss the lawsuits in June 2024, making the same arguments that it makes here. On May 19, 2025, its motion was denied in full. Since then, the parties have been engaging in discovery and gradually building a record for trial.

But now this case has been reassigned, and Magpul wants a second bite at the apple. Never mind that Judge Mitch Perry already heard, and rejected, all of Magpul's arguments. And never mind that (1) there has been no change in applicable law; (2) the pleadings today are exactly the same as they were the last time around; and (3) Magpul fails to identify a single error in Judge Perry's opinion. Instead, Magpul bring its motion on the basis of unrelated grievances about the burdens of discovery, even though discovery has nothing to do with a motion for judgment on the pleadings. It also points to the recent passage of a Kentucky statute, the "PLCAA Clarification Act of 2026," but this statute is explicitly not retroactive. *See* Ch. 177, 2026 Ky. Acts 2300, 2303 (stating that statute applies to "actions ... filed on or after the effective date of this Act"); *see also* Mem. Ex. A, at 7. So it simply has nothing to do with this case, which was filed in 2024.

In truth, Magpul's motion is nothing more than an attempt to use this case's transfer as an opportunity to revisit arguments that have already been soundly and persuasively rejected. But "a successor judge should use the greatest restraint and caution in reversing the judgment of a

predecessor.” *Herring v. Moore*, 561 S.W.2d 95, 97 (Ky. Ct. App. 1977). This motion is not a worthy use of judicial resources, and the Court should deny it outright.

The motion also fails on the merits, as did Magpul’s motion to dismiss. As Judge Perry has already found, the federal Protection of Lawful Commerce in Arms Act (PLCAA), 15 U.S.C. §§ 7901-7903, does not protect Magpul from this lawsuit because Magpul’s products are not covered by PLCAA. And as Judge Perry also found, Plaintiffs have adequately pleaded, under state law, that Magpul’s negligent conduct foreseeably led to Plaintiffs’ injuries in the Old National Bank shooting. Because Judge Perry got it right in denying Magpul’s original motion to dismiss, and because Magpul offers no new persuasive argument to the contrary, the Court should deny the motion.

STATEMENT OF THE CASE

Factual Background

On April 4, 2023, a disturbed young man showing signs of a mental breakdown entered a gun store in Louisville because he wanted to obtain the firepower necessary to carry out a mass shooting. Am. Compl. ¶¶ 3, 5, 50-51; Elliott Compl. ¶¶ 9, 49-50. Inside the store, he behaved so suspiciously that another patron standing near him became concerned and contemplated calling the police. Am. Compl. ¶¶ 5, 55; Elliott Compl. ¶¶ 9, 54. A week later, when she heard about the shooting at Old National Bank, the patron correctly surmised that the shooter, Connor Sturgeon, had been the young man she had seen, even though the shooter had not yet been identified. Am. Compl. ¶ 59; Elliott Compl. ¶ 58.

The store Sturgeon picked, River City Firearms, had repeatedly been identified by federal regulators as one of the top sellers of guns used in crime nationwide. Am. Compl. ¶¶ 43, 48; Elliott Compl. ¶¶ 42, 47. And despite the red flags generated by Sturgeon’s behavior, the store readily sold him the weaponry he would need to carry out his plan. Am. Compl. ¶ 59; Elliott Compl. ¶ 58. But not only did it sell him the AR-15-style rifle he sought, it also encouraged him to enhance his firearm with

an array of accessories favored by mass shooters, including three additional large-capacity magazines and a vertical grip, all made by Magpul. Am. Compl. ¶¶ 7, 60-61, 67; Elliott Compl. ¶¶ 11, 60-61, 67. And the store sold him just enough ammunition to fill each of his magazines once. Am. Compl. ¶ 3; Elliott Compl. ¶ 6.

Just six days later, on April 10, 2023, Sturgeon carried his fully equipped AR-15 into his workplace, Old National Bank. Am. Compl. ¶ 86; Elliott Compl. ¶ 85. He encountered Dallas Schwartz in a hallway and shot her in the leg before proceeding to a conference room and massacring his colleagues as they began their Monday morning meeting. Am. Compl. ¶¶ 2, 10-11, 86-91; Elliott Compl. ¶¶ 6, 15-17, 85-90. Despite his total inexperience with firearms, he was able to shoot and kill Jim Tutt, Josh Barrick, Tommy Elliott, Juliana Farmer, and Deana Eckert and shoot and wound Dana Mitchell and Julie Andersen. Am. Compl. ¶¶ 11, 19-20, 23-24, 74, 88, 90; Elliott Compl. ¶¶ 5, 16, 74, 88-90. After his initial assault, Sturgeon reloaded his weapon with a second large-capacity magazine and engaged in a firefight with responding law enforcement, during which he shot and wounded Jimmy Evans, as well as two police officers. Am. Compl. ¶¶ 15, 75, 92, 94-96; Elliott Compl. ¶¶ 74, 91, 93-95.

The deadly accessories manufactured by Magpul worsened the devastation at Old National Bank. Am. Compl. ¶¶ 68-69, 74-75, 77, 140-41; Elliott Compl. ¶¶ 68-69, 74, 76, 137. While AR-15s, which were designed for combat, are deadly enough on their own, accessories like large-capacity magazines and vertical grips make them even more lethal. *See* Am. Compl. ¶¶ 35, 60; Elliott Compl. ¶¶ 34, 60. A vertical grip gives the shooter greater control over the AR-15, and thus greater accuracy, when firing multiple shots in quick succession. Am. Compl. ¶¶ 63-64; Elliott Compl. ¶¶ 63-64. And a large-capacity magazine (i.e., a magazine that can hold more than ten rounds of ammunition) allows a shooter to keep firing for longer without reloading. Am. Compl. ¶¶ 70-72; Elliott Compl. ¶¶ 70-72. Having multiple large-capacity magazines allows a shooter to fire hundreds of rounds with only a few

quick magazine changes. *See* Am. Compl. ¶¶ 70-71, 74-75; Elliott Compl. ¶¶ 70-71, 74. From 2015 to 2022, mass shootings carried out with large-capacity magazines resulted in, on average, twice as many people killed and nearly ten times as many people wounded. Am. Compl. ¶ 73; Elliott Compl. ¶ 73.

Magpul knew, or should have known, all of this. *See* Am. Compl. ¶¶ 35-36, 79; Elliott Compl. ¶¶ 34-35, 78. Yet it took no action to prevent the all-too-foreseeable tragedies that are carried out on a regular basis with the products that it manufactures. *See* Am. Compl. ¶ 80; Elliott Compl. ¶ 79. Indeed, Magpul is the largest manufacturer of large-capacity magazines in the country, accounting for the vast majority of the market. Am. Compl. ¶ 28. But it failed to exercise reasonable care to ensure that its lethal products are not sold to dangerous individuals. Am. Compl. ¶ 9; Elliott Compl. ¶¶ 13-14. Instead, Magpul recklessly encouraged the retail sellers of its accessories to upsell to consumers—regardless of need or suitability—through incentives such as discounted pricing, dealer rebates, reward programs, and/or other terms contained in distributor or manufacturer agreements. Am. Compl. ¶ 127; Elliott Compl. ¶ 124. While upselling may be an innocuous sales practice in other industries, it is exceedingly dangerous when it involves products that enable the consumer to kill faster and more efficiently. Am. Compl. ¶ 8; Elliott Compl. ¶ 12. Magpul also failed to screen out retailers like River City that have extensive histories of violating federal regulations and selling a large number of guns later recovered at crime scenes, and that fail to adequately train their employees to identify suspicious transactions. *See* Am. Compl. ¶¶ 9, 80; Elliott Compl. ¶¶ 13-14, 79. In sum, the scale of Plaintiffs' grievous injuries can be traced back to Magpul's negligent business practices. *See* Am. Compl. ¶ 85; Elliott Compl. ¶ 84.

Procedural History

Survivors Dana Mitchell, Dallas Schwartz, Julie Andersen, Jimmy Evans, and the families of Jim Tutt and Josh Barrick (collectively, the Mitchell Plaintiffs) filed their operative amended complaint on April 8, 2024, and the families of Tommy Elliott, Juliana Farmer, and Deana Eckert (collectively,

9BF602EF-F793-47D8-8597-BA8DC45BEF3A : 000005 of 000027

RES : 000005 of 000025

the Elliott Plaintiffs) filed their complaint on the same day. On June 14, 2024, Defendants Magpul and RSR Group, Inc. filed joint motions to dismiss the two complaints. The Mitchell and Elliott cases were then consolidated, along with a third lawsuit, filed by Plaintiff Zurich American Insurance Co., and on February 28, 2025, the consolidated case was transferred to Division Three.

On May 19, 2025, Judge Mitch Perry denied the Defendants' motions to dismiss in their entirety. As relevant here, Judge Perry first held that Plaintiffs' claims against Magpul were not preempted by PLCAA, a federal statute that forbids some—but by no means all—lawsuits against certain members of the gun industry. Judge Perry held that Plaintiffs' claims against Magpul survive PLCAA because the claims “are exclusively for the accessories sold to the shooter, not for the sale of the firearm itself.” Op. 3. Because “none of the accessories are ‘qualified products’” under PLCAA, and because “[c]laims that do not involve ‘qualified products’ are not affected by PLCAA,” Judge Perry correctly held that Plaintiffs' claims against Magpul could proceed. Op. 3-4.

Next, Judge Perry concluded that “Plaintiffs have demonstrated sufficient support to sustain their claims of negligence against the Defendants.” Op. 6. Judge Perry found that, under the facts alleged in the complaints, it was “foreseeable that through upselling and incentivizing the sale of these dangerous accessories through irresponsible retailers, [Magpul’s] products were more likely to be used to injure and kill people.” Op. 6. And he found “a legally cognizable connection between [Magpul and RSR] incentivizing upselling of the accessories through irresponsible stores leading to an even deadlier catastrophe.” Op. 6. Judge Perry also held that the conduct of the shooter, Sturgeon, was not a superseding cause of the Plaintiffs' injuries because it was “entirely foreseeable” that a “disturbed person [would] be upsold dangerous accessories they do not need and embark on a murderous rampage, enabled and enhanced by those accessories.” Op. 6-7. Finally, because Plaintiffs “clearly alleged a set of facts that a jury could find rise to the level of gross negligence,” Judge Perry ruled that Plaintiffs' claim for punitive damages could also proceed. Op. 7.

The case then proceeded to discovery, which is underway. On April 20, 2026, this case was reassigned to Division Seven. On May 29, 2026, Magpul filed the instant motion for judgment on the pleadings, reasserting arguments that had previously been rejected in Division Three.

LEGAL STANDARD

A motion for judgment on the pleadings under CR 12.03 is designed to dispose of cases where “the ultimate and controlling facts are not in dispute.” *City of Pioneer Village v. Bullitt County ex rel. Bullitt Fiscal Ct.*, 104 S.W.3d 757, 759 (Ky. 2003). It provides a “method of disposing of cases where the allegations of the pleadings are admitted and only a question of law is to be decided.” *Id.* “When a party moves for judgment on the pleadings, he admits for the purposes of his motion ... the truth of all of his adversary’s well-pleaded allegations of fact and fair inferences therefrom” *Archer v. Citizens Fid. Bank & Tr. Co.*, 365 S.W.2d 727, 729 (Ky. 1962). “The judgment should be granted if it appears beyond doubt that the nonmoving party cannot prove any set of facts that would entitle him/her to relief.” *City of Pioneer Village*, 104 S.W.3d at 759. Critically, this is the same as the standard employed on a motion to dismiss:

When considering a motion for failure to state a claim upon which relief could be granted or motion for judgment on the pleadings, all facts set forth in the complaint are accepted as true, and all inferences are to be construed in favor of plaintiff. And, it must be demonstrated that plaintiff is not entitled to relief upon the facts as set forth in the complaint or upon any facts that could be proved in support of plaintiff’s claims.

Catchen v. City of Park Hills, 356 S.W.3d 131, 133 (Ky. Ct. App. 2011) (citation omitted).

ARGUMENT

I. This Court should not overturn Judge Perry’s decision.

A. Motions to reconsider are disfavored.

“[A] successor judge should use the greatest restraint and caution in reversing the judgment of a predecessor.” *Herring v. Moore*, 561 S.W.2d 95, 97 (Ky. Ct. App. 1977). Although a successor judge *may* review a predecessor’s judgment, the judge should exercise “extreme caution” in doing so. *Id.* at

98. “For a judge of coordinate jurisdiction to reverse a judgment of a fellow judge ... is to do disservice to the law and create disrespect for it.” *Id.* at 97 (citation omitted). For this reason, a judge should reexamine a prior decision of a fellow judge only “where there is a patent error.” *Id.* (citation omitted).

What Magpul really seeks here is reconsideration of its previously rejected legal arguments. Magpul’s instant motion is branded as a motion for “judgment on the pleadings” under CR 12.03, while its June 2024 dispositive motion, which Judge Perry denied in its entirety, was styled as a motion to dismiss under CR 12.02. Nevertheless, Magpul raises identical legal theories in each motion, under identical legal standards. The Kentucky Supreme Court has cautioned parties against filing frivolous and vexing motions seeking reconsideration of previously resolved issues:

The Commonwealth appeals the denial of a so-called motion to reconsider, which the circuit court noted “recite[d] arguments that ... [it had] rejected on two prior occasions and the [c]ourt [wa]s not inclined to re-visit ... without case law authorizing it to do so.” Motions such as this merely asking the trial court to change its mind have become a very common practice in the circuit courts of this Commonwealth, and indeed several such motions, from both sides, were filed in this case.

Such repetitious motions are improper. While it is true that under CR 54.02 the trial court retains broad discretion to revisit its interlocutory rulings at any time prior to the entry of a final judgment, that discretion is properly invoked only when there is a *bona fide* reason for it, *i.e.*, a reason the court has not already considered. Otherwise a motion to reconsider amounts to no more than *badgering the court*, a practice that could well be deemed a violation of Civil Rule 11. The bench and bar are admonished to take notice that this practice of *filing multiple vexatious motions to reconsider is not supportable under the Civil Rules and should be discontinued.*

Moore v. Commonwealth, 357 S.W.3d 470, 496-97 (Ky. 2011) (alterations in original) (emphases added) (citations omitted).

Magpul’s rebranding its motion does not change the substance of what it asks this Court to do—to reconsider previously rejected legal arguments with no *bona fide* reason for doing so. Its motion should be denied.

B. Magpul's discovery obligations are no reason to question Judge Perry's opinion.

Magpul attempts to distinguish this motion from its prior one by referencing its ordinary discovery obligations, including what it characterizes as “protracted, contentious, and extremely expensive, discovery disputes.” Mem. 5. Setting aside the veracity of this statement, which Plaintiffs will not litigate here, it has no basis in the pleadings and for that reason is irrelevant on a CR 12.03 motion. *See Archer*, 365 S.W.2d at 729 (stating that motion under CR 12.03 “is to be determined solely on the pleadings”). If Magpul would like this Court to consider a discovery motion, it may file a discovery motion. And if it wants this Court to address the merits of the case on the basis of record evidence, it may file a motion for summary judgment. But this motion is neither of those things, and Magpul has submitted no evidence besides. Magpul's arguments regarding discovery thus provide no basis to reconsider Judge Perry's decision.

C. The new Kentucky statute is not retroactive, cannot amend federal law, and is not a reason to overturn Judge Perry's opinion.

The other justification that Magpul offers for why this Court should reconsider Judge Perry's decision is the enactment of a new statute by the Kentucky General Assembly, the PLCAA Clarification Act of 2026, ch. 177, 2026 Ky. Acts 2300. *See* Mem. 3, 5, 11, 13 & Ex. A. Under this statute, new lawsuits may not be brought in Kentucky against certain members of the firearm industry arising out of the misuse of firearms and certain firearm-related products, but the statute applies only to lawsuits filed *after* the date of the statute's passage. *See* 2026 Ky. Acts at 2301-03; *see also* Mem. Ex. A, at 2-4, 7. The law is expressly modeled after—and more expansive than—PLCAA, the federal law that it is named for. *See* 2026 Ky. Acts at 2300-01; *see also* Mem. Ex. A, at 1. *Compare, e.g.*, 15 U.S.C. § 7903(4) (defining “qualified product” in PLCAA to include only firearms, ammunition, and component parts of firearms and ammunition), *with* 2026 Ky. Acts at 2302 (defining “qualified product” in Kentucky law to include not just firearms, ammunition, and component parts but also accessories, “including but not limited to ammunition magazines or clips, optical devices, or other

products intended to be ... attached to or used while attached to, or in conjunction with, a firearm or ammunition”).

According to its plain language, the Kentucky statute does not apply to this case. Section 2 of the Act expressly states that it applies to “actions ... *filed on or after* the effective date of this Act.” 2026 Ky. Acts at 2303 (emphasis added); *see also* Mem. Ex. A, at 7. The Act overcame a gubernatorial veto and took effect on April 14, 2026, more than two years after this case was filed. *See* 2026 Ky. Acts at 2303. The Act, therefore, plainly has no effect on this case. Indeed, the enactment history of the statute confirms the legislature’s intent not to cover preexisting lawsuits. As originally introduced, the Act stated that it would “apply to any action filed on or after the effective date of this Act ... *and* to any actions that are pending without a final adjudication on the effective date of this Act.” H.B. 78 (as introduced), 2026 Gen. Assem., Reg. Sess. (Ky. 2026) (emphasis added). The legislature’s decision to take out this language makes clear that the Act does *not* apply to actions, like this one, that were already pending on the Act’s effective date.

Although Magpul seemingly acknowledges that the statutory text is against it, it nevertheless confusingly asserts that the Act “evidences the General Assembly’s intention to completely foreclose this type of vexatious litigation in the Commonwealth.” Mem. 2 n.2. But whether or not *future* plaintiffs are foreclosed from bringing similar suits, it is clear that *this* case is not foreclosed.

Even if the Kentucky statute were retroactive, Magpul’s suggestion that it provides a “clarification for how the PLCAA should be interpreted in this Commonwealth,” Mem. 3, would still fail, because a state statute cannot “clarify” a federal law. *See United States v. Trevino*, 7 F.4th 414, 427 (6th Cir. 2021) (“[I]t is an elementary feature of our federal system that a state statute cannot override or amend federal law.” (citing U.S. Const. art. VI, cl. 2)). Nor do federal laws mean different things in different states. *See Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 43 (1989) (observing that, “in the absence of a plain indication to the contrary,” Congress intends federal statutes “to have uniform

nationwide application” (citation omitted)). If Plaintiffs’ lawsuit is permitted by PLCAA, as Judge Perry correctly held, no act of the Kentucky Legislature can change that. *See, e.g., Smallwood v. Jefferson Cnty. Gov’t*, 753 F. Supp. 657, 659 n.7 (W.D. Ky. 1991) (“The Court does not believe that a state legislature can ... change the meaning of a federal statute.”).¹

Accordingly, because Magpul offers this Court no legitimate reason to reconsider Judge Perry’s decision, this Court can and should deny Magpul’s motion without reaching the merits.

II. Magpul’s motion fails on the merits.

If this Court does reach the merits, however, it should still deny Magpul’s motion, for the reasons set forth in Judge Perry’s decision and discussed further below. First, this lawsuit is not barred by PLCAA because, as Judge Perry found, the Magpul products at issue in this case are firearm accessories, to which PLCAA has no application. *See infra* Section II.A.1. It is also not barred for the independent reason that Magpul is not a licensed manufacturer of these products, which is a necessary precondition for PLCAA protection. *See infra* Section II.A.2. Because PLCAA does not apply, the only other question before the Court is whether Plaintiffs have stated claims under Kentucky law. As Judge Perry already found, they have. Plaintiffs’ complaints allege that Magpul’s conduct breached its duty of ordinary care, *see infra* Section II.B.1, and foreseeably caused Plaintiffs to suffer injuries, *see infra* Section II.B.2. Moreover, Plaintiffs have stated a claim under KRS 411.150, *see infra* Section II.B.3, and for punitive damages, *see infra* Section II.B.4. The motion should be denied.

A. Plaintiffs’ claims are not affected by PLCAA.

PLCAA is a federal law that protects certain members of the firearm industry from certain types of lawsuits. Specifically, it provides that a lawsuit that arises out of the “criminal or unlawful

¹ In fairness to the General Assembly, it did not purport to amend the federal PLCAA—contrary to what Magpul suggests, *see* Mem. 2-3. Rather, the Commonwealth enacted its own, standalone law that has its own, standalone effects. *See* 2026 Ky. Acts 2300, 2301-03. But because this law applies only prospectively, it is irrelevant to this preexisting lawsuit.

misuse of a qualified product” may not be brought “against a manufacturer or seller of a qualified product.” 15 U.S.C. §§ 7902(a), 7903(5)(A); *see* Op. 3. The statute defines “qualified product” to include firearms, ammunition, and “component part[s]” of firearms and ammunition. § 7903(4); *accord* Op. 3. Claims that do not involve “qualified products” are not barred by PLCAA and may proceed. *See* § 7903(4), (5)(A). Additionally, claims against entities who are not “manufacturers,” “sellers,” or “trade associations” under the statute may proceed. *See* § 7903(2), (5)(A), (6), (8).

PLCAA’s provision of immunity only for claims involving “qualified products” is no accident—it is the very bargain that was built into the legislation. As Congress noted in PLCAA’s preamble, “The manufacture, importation, possession, sale, and use of *firearms and ammunition* in the United States are heavily regulated by Federal, State, and local laws.” § 7901(a)(4) (emphasis added). Manufacturers of guns and ammunition bear the cost of “heav[y] regulat[ion]” in return for reduced liability. In contrast, Congress determined that manufacturers of more lightly regulated products—like the accessories at issue here—should not receive the same benefit. Indeed, manufacturing or selling magazines and vertical grips requires no license at all, as discussed further in Section II.A.2, below.

That balance struck by Congress explains why Magpul does not get the benefit of PLCAA’s protection here. As Judge Perry noted, “[c]laims that do not involve ‘qualified products’ are not affected by PLCAA,” and PLCAA bars only those claims that are brought against “a manufacturer or a seller of a qualified product.” Op. 3. While some aspects of this case involve the criminal misuse of a qualified product—namely, an AR-15-style rifle (and the rifle’s ammunition)—and some claims are brought against a licensed firearm seller, River City, the claims against Magpul do not meet either of those qualifications for immunity, let alone both.² Plaintiffs’ claims against Magpul may thus proceed

² Although PLCAA does apply to the negligent-entrustment and statutory claims against River City, those claims may proceed under PLCAA’s exceptions, as Judge Perry found. *See* Op. 3-5.

for two independent reasons: (1) the claims against Magpul do not involve qualified products, and (2) Magpul is not a manufacturer or seller of a qualified product.

1. *The claims against Magpul do not involve qualified products.*

Plaintiffs are suing Magpul for its role in this mass shooting—that is, for the manufacture and distribution of the three additional large-capacity magazines and the vertical grip that were sold to and used by Sturgeon in the shooting. *See* Am. Compl. ¶¶ 127-29, 132, 140-41, 143; Elliott Compl. ¶¶ 124-26, 129, 137, 139. Plaintiffs’ claims against Magpul thus do not involve qualified products, because large-capacity magazines and vertical grips are not firearms, ammunition, or component parts of firearms or ammunition. *See* § 7903(4). Instead, they are merely accessories.

As Judge Perry recognized, “a ‘mere firearm accessory,’ not constituting a ‘component part,’ is not covered by PLCAA.” Op. 3-4 (quoting *Prescott v. Slide Fire Sols., LP*, 341 F. Supp. 3d 1175, 1187 (D. Nev. 2018)). And as Judge Perry explained, “[t]he distinction between an ‘accessory’ and a ‘component part’ is a simple one. That is, whether the item in question enhances the firearm’s effectiveness or aesthetics, or whether it is essential to the functioning of the firearm.” Op. 4 (citing *Prescott*, 341 F. Supp. 3d at 1188). “Under this simple framework, it is plain that all the items in question here are accessories rather than component parts. The firearm can be fired and used without a large-capacity magazine ... or a vertical grip. Those items instead only serve to augment the efficacy of the firearm.” Op. 4; *accord Green v. Kyung Chang Indus. USA, Inc.*, No. A-21-838762-C, 2022 WL 987555, at *1 (Nev. Dist. Ct. Mar. 23, 2022) (concluding that large-capacity magazine was not “component part” under PLCAA because firearm to which it was attached could operate without it); *see* Am. Compl. ¶ 133; Elliott Compl. ¶ 130.

In arguing to the contrary, Magpul cites two cases, neither of which helps it. *See* Mem. 10 (citing *Prescott*, 341 F. Supp. 3d 1175, and *In re Acad., Ltd.*, 625 S.W.3d 19 (Tex. 2021)). In *Prescott*, the district court decided that a bump stock was a component part of a firearm because it replaces the

firearm's original stock, which the parties did not dispute was a component part. *See* 341 F. Supp. 3d at 1189.³ The logic and conclusion of *Prescott* have no applicability to this case, which does not involve stocks or bump stocks or the replacement of any other original parts. Indeed, Judge Perry explicitly agreed with Plaintiffs on this point. *See* Op. 4 (distinguishing products at issue in this case from bump stock at issue in *Prescott*).

In re Academy also does not support Magpul. In that case, the product in question was an AR-style rifle that was bundled and packaged together with a large-capacity magazine, and the parties did not dispute that PLCAA applied to the case. *See* 625 S.W.3d at 23, 26. Thus, the *Academy* court was simply not asked to determine whether PLCAA applied to the product at issue or whether PLCAA would apply to a large-capacity magazine sold separately. Magpul cited *Academy* in service of this same point in its Motion to Dismiss, *see* Mot. to Dismiss 8, and Judge Perry was not convinced by it. As Judge Perry recognized, magazines standing alone are not component parts. *See* Op. 4.

Magpul also observes that certain courts have held magazines to be “arms” under the Second Amendment. *See* Mem. 10-11. Yet other courts disagree. *See, e.g., Duncan v. Bonta*, 133 F.4th 852, 865 (9th Cir. 2025) (en banc) (“we conclude that large-capacity magazines are not ‘Arms’ within the meaning of the Second Amendment”), *petition for cert. filed*, No. 25-198 (U.S. Aug. 15, 2025). This Court need not weigh in on this ongoing debate, since even if Magpul’s reading of the Second Amendment were correct, it would not shed any light on the PLCAA question. For there is no reason to think that the definition of “arms” in the Second Amendment—which includes non-firearm weapons, like knives and batons, *see, e.g., State v. DeCiccio*, 105 A.3d 165, 190, 198 (Conn. 2014)—is the same as a “component part of a firearm” under PLCAA, § 7903(4). The questions are distinct.

³ “A bump stock is a modified type of rifle stock that replaces the existing stock” and causes the rifle to “fire at a rate comparable or equivalent to a fully automatic weapon.” *Prescott*, 341 F. Supp. 3d at 1180, 1189.

Next, Magpul relies on a particular dictionary definition of the words “component part,” arguing that a part is “a piece that combines with other pieces to form the whole of something.” Mem. 11. But even the definition cherry-picked by Magpul to best make its case does not support its point.⁴ The large-capacity magazines and vertical grip at issue in this case are not “pieces” that “form” the gun. As Judge Perry recognized, “the firearm in question here does not require any magazine in order to function and fire a shot,” and “[t]he firearm plainly functions as intended without [the vertical grip].” Op. 4. In other words, the firearm was already “whole” when it was sold to Sturgeon; it did not require additional “pieces” from Magpul in order to work. *Cf.* Mem. 11. That Sturgeon affixed these additional accessories onto his gun does not transform those accessories into “component parts” of the firearm. Were Magpul’s argument correct, it would mean that any number of firearm attachments, no matter how extraneous—like flashlights, bayonets, or even shoulder straps—would be considered “component parts” of a firearm, even though no reasonable speaker of English (or member of Congress) would describe them that way.⁵

Despite all this, Magpul asserts that it is so “intuitive” that these products are component parts that they were included in Kentucky’s PLCAA Clarification Act. Mem. 11. But as noted above, Kentucky’s new law is more expansive than PLCAA. *See supra* Section I.C. Under the Kentucky Act,

⁴ Other dictionaries also make clear that a component part is a necessary part of an object, rather than an add-on. *See, e.g., Component*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/component> (last visited July 1, 2026) (defining component as “a constituent part” or “ingredient”); *see also Prescott*, 341 F. Supp. 3d at 1188 (adopting this definition); *cf. Component Part*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/component%20part> (last visited July 1, 2026) (“something ... that cannot be removed without substantial damage to itself or to the immovable property to which it is attached”).

⁵ Indeed, Magpul’s own website (which is referenced in the complaints, Am. Compl. ¶¶ 32, 63, 70; Elliott Compl. ¶¶ 31, 63, 70) promotes the large-capacity magazines and vertical grip at issue in this case under the label “Firearm Accessories.” *See* Magpul, <https://magpul.com> (last visited July 1, 2026); *PMAGs for AR15, M4, And M16 Rifles*, Magpul, <https://magpul.com/firearm-accessories/pmags/ar15-m4-m16.html> (last visited July 1, 2026); *Magpul Vertical Grip – Angled Fore Grip*, Magpul, <https://magpul.com/firearm-accessories/grips/vertical-fore-grips.html> (last visited July 1, 2026).

a “qualified product” is defined to include “a component part of, *or an accessory intended for use with*, a firearm or ammunition, including but not limited to ammunition magazines.” 2026 Ky. Acts at 2302 (emphasis added); *see also* Mem. Ex. A, at 3-4. Contrast this with the language of PLCAA, which says that a “qualified product” includes a “component part” but does *not* say that it includes magazines or other accessories. 15 U.S.C. § 7903(4). In other words, the Kentucky Legislature recognized that “accessories,” including magazines, were not included in PLCAA and chose to create such protection for future cases in the state. Its choice to do so, if anything, shows that Judge Perry’s holding in this case was correct—that, under PLCAA, magazines and vertical grips are not component parts.

Ultimately, Magpul offers no reason for this Court to depart from Judge Perry’s prior decision. The large-capacity magazines and vertical grip at issue in this case are accessories, not component parts of firearms, and for that reason PLCAA is inapplicable to Plaintiffs’ claims against Magpul.

2. *Magpul is not a “manufacturer” under PLCAA.*

Even if this Court disagrees with the foregoing analysis, Plaintiffs’ claims against Magpul may nevertheless proceed for the independent reason that, contrary to Magpul’s argument, *see* Mem. 9, Magpul is not a “manufacturer” as defined by PLCAA, and thus Plaintiffs’ claims against Magpul are not “against a manufacturer,” as PLCAA requires, § 7903(2), (5)(A).

Magpul can claim PLCAA protection only if it is a “manufacturer” as defined by the statute. And under the statute, “[t]he term ‘manufacturer’ means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce *and* who is licensed to engage in business as such a manufacturer.” § 7903(2) (emphasis added). In other words, PLCAA’s protections for manufacturers of qualified products apply only to *licensed* manufacturers of those products. *See* Op. 3; *Ileto v. Glock, Inc.*, 565 F.3d 1126, 1145 (9th Cir. 2009); Mem. 9 n.5. To be sure, Magpul manufactured the large-capacity magazines and vertical grip at issue in this case. But Magpul has no license to manufacture magazines or vertical grips. In fact, there *is* no

license to manufacture magazines or vertical grips. *See* 18 U.S.C. § 923(a) (requiring licenses only to manufacture firearms or ammunition). Therefore, even if this Court were to find that large-capacity magazines and vertical grips were qualified products, Magpul still could not claim PLCAA protection because it is not a licensed manufacturer of them.⁶

* * *

Magpul's bid for immunity under PLCAA thus fails for two independent reasons: Plaintiffs' claims against Magpul do not involve qualified products, and Magpul is not a "manufacturer" under PLCAA anyway. Because Plaintiffs' claims do not fall within PLCAA's scope, it is irrelevant whether they satisfy any of PLCAA's exceptions. *Cf.* Mem. 11-15.

B. Plaintiffs have stated claims under Kentucky law.

Because Plaintiffs' claims are not barred by PLCAA, this Court may evaluate them under state law. Magpul has presented no new arguments on this subject since it made them to Judge Perry in the Motion to Dismiss. And as Judge Perry correctly held, Plaintiffs have sufficiently alleged the elements of each of their claims, and those claims should be allowed to proceed.

1. Plaintiffs have adequately alleged that Magpul breached its duty of care.

Every person, including corporations, owes a duty to exercise ordinary care in the course of their activities to prevent foreseeable injury. *See Shelton v. Ky. Easter Seals Soc'y, Inc.*, 413 S.W.3d 901, 908 (Ky. 2013); *Stiens v. Bausch & Lomb, Inc.*, 626 S.W.3d 191, 200 (Ky. Ct. App. 2020). Here, Plaintiffs "allege that [Magpul and RSR] breached their duty of ordinary care by continuing to supply their

⁶ Although it is not in the record, Plaintiffs acknowledge that Magpul has a license to manufacture firearms. *See* Mot. to Dismiss 7 ("As a federally licensed manufacturer of firearms, Magpul is a 'manufacturer' pursuant to the terms of the PLCAA."). But that is irrelevant, because no Magpul-manufactured firearms are at issue in this case. *See Iletto*, 565 F.3d at 1145-46 (holding that PLCAA does not apply where defendant's "coincidental status" as a manufacturer or seller is unrelated to claims at issue). Indeed, in the instant motion, Magpul seems to have abandoned the argument that PLCAA protects it as a manufacturer of firearms. *See* Mem. 9 (arguing that Magpul is protected by PLCAA as "a manufacturer ... of ... the magazine and grip component parts").

products to allegedly irresponsible retailers, and failing to take reasonable steps to ensure their products were not being supplied to dangerous individuals.” Op. 6. As Judge Perry recognized, it was a “foreseeable” consequence of Magpul’s alleged conduct that its products would be “more likely to be used to injure and kill people.” Op. 6.

In its motion, Magpul asserts that Plaintiffs’ theory of liability is foreclosed, relying on *Grand Aerie Fraternal Order of Eagles v. Carneyhan*, 169 S.W.3d 840 (Ky. 2005). *See* Mem. 16. But the rule from *Grand Aerie* has no applicability here. In *Grand Aerie*, the plaintiff, who was harmed by the local chapter of a national organization, sued the national organization on the theory that it failed to supervise the chapter. *See* 169 S.W.3d at 843. The Supreme Court of Kentucky rejected that claim, stating that “an actor *whose own conduct has not created a risk of harm* has no duty to control the conduct of a third person.” *Id.* at 849 (emphasis added). That is not Plaintiffs’ theory in this case. Here, Plaintiffs are suing Magpul for *its own conduct*—for unreasonably distributing its dangerous products to irresponsible dealers and for incentivizing those dealers to upsell those products to their customers. *See, e.g.*, Am. Compl. ¶ 127; Elliott Compl. ¶ 124. Because Plaintiffs are suing Magpul not for negligent supervision but for its own negligent conduct, *Grand Aerie* does not apply. Indeed, Magpul’s fellow defendant River City made this same argument to Judge Perry, who was not convinced by it. *See* River City Mot. to Dismiss 9-10; Op. 6-7.

Section 302A of the Restatement is particularly helpful in explaining Magpul’s duty of care, and Plaintiffs’ negligence claim contains clear parallels to an illustration within that section:

A, constructing a building, blocks the sidewalk, and forces pedestrians to walk in the street, where there is heavy traffic and no protection. A could easily avoid the risk by constructing, at slight expense, a passage with a guardrail, but fails to do so. B, a pedestrian forced into the street, is struck and injured by an automobile driver who is not keeping a proper lookout. A may be found to be negligent toward B.

Restatement (Second) of Torts § 302A illus. 3 (A.L.I. 1965). In a similar way, Magpul was negligent in failing to establish reasonable safeguards—constructing a “guardrail,” to borrow from the

illustration—to prevent its products from falling into dangerous hands. *See* Am. Compl. ¶ 80; Elliott Compl. ¶ 79.

2. *Plaintiffs have adequately alleged causation.*

“Except in such cases where reasonable minds could not differ,” the question whether negligent conduct was a legal cause of a plaintiff’s injury is typically “for the jury.” *Grayson Fraternal Order of Eagles, Aerie No. 3738 v. Claywell*, 736 S.W.2d 328, 334 (Ky. 1987). As Judge Perry already found based on these same arguments, Plaintiffs here have adequately pleaded both but-for and proximate causation: “Taking the allegations in the Complaint as true, the Court finds that there is a legally cognizable connection between the distributor Defendants incentivizing upselling of the accessories through irresponsible stores leading to an even deadlier catastrophe.” Op. 6.

Yet Magpul reasserts its same argument, that “the allegations in the Complaints do not even establish but-for causation.” Mem. 17. That’s wrong. Plaintiffs expressly alleged that: (1) “[t]he accuracy and control provided by the sight and grip helped Sturgeon overcome [certain] difficulties and cause greater carnage”; (2) Sturgeon’s possession of all the accessories “emboldened him to carry out his heinous act and resulted in more carnage at Old National Bank than [he] would have otherwise caused”; and (3) Sturgeon’s possession of the additional large-capacity magazines specifically resulted in the injury to Jimmy Evans, who was not shot until after Sturgeon had already exhausted his first magazine and loaded another. Am. Compl. ¶¶ 69, 75, 77; Elliott Compl. ¶¶ 69, 76. Accepting Plaintiffs’ allegations that “each accessory enhanced the lethality of the firearm and enabled the shooter to wreak the havoc he did,” Judge Perry found “a legally cognizable connection” between Magpul’s conduct and the Plaintiffs’ injuries. Op. 6.

Magpul asserts that “there is nothing to indicate that the shooting would not have occurred if the murderer did not have the component parts,” Mem. 17, but that misstates the inquiry. The question is not whether Magpul’s conduct caused the *shooting* but whether Magpul’s conduct caused

Plaintiffs' *injuries*. As discussed above, Plaintiffs allege injuries that would not have occurred or would have been of lesser severity if Sturgeon did not have Magpul's products. In Judge Perry's words, Magpul's actions, as alleged in the complaints, "le[d] to an even deadlier catastrophe." Op. 6. Plaintiffs have therefore alleged but-for causation.

Next, Magpul argues that "even if [its] conduct was a legal cause of Plaintiffs' injuries, the shooting was a superseding, intervening cause." Mem. 17. That's incorrect. As the Supreme Court of Kentucky has recognized, "If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the [defendant] negligent, such an act ... whether innocent, negligent, intentionally tortious, or criminal, does not prevent the [defendant] from being liable for harm caused thereby." *Britton v. Wooten*, 817 S.W.2d 443, 449 (Ky. 1991); *accord* Op. 6-7. Here, as Judge Perry explained, "the hazard is that a noticeably disturbed person will be upsold dangerous accessories they do not need and embark on a murderous rampage, enabled and enhanced by those accessories." Op. 7. That is precisely what ended up happening. Sturgeon's foreseeable criminal conduct thus does not supersede Magpul's negligence.

Magpul insists that it "cannot be expected to foresee" that its conduct "would result in products being used by a criminal to commit multiple murders." Mem. 18; *see also* Mem. 5 ("as if Magpul could reasonably foresee the harm complained of"). But there is nothing novel or unforeseeable about the events of this case. As Plaintiffs alleged, in the years leading up to the conduct at issue, there were numerous, high-profile mass shootings carried out across the country with AR-15-style rifles equipped with large-capacity magazines. Am. Compl. ¶¶ 35-36; Elliott Compl. ¶¶ 34-35. And Plaintiffs alleged that Magpul was well aware of that. Am. Compl. ¶ 79; Elliott Compl. ¶ 78. For Magpul to suggest that it was not foreseeable that such shootings would continue is nothing short of fanciful. In the words of Judge Perry, "It was entirely foreseeable that this outcome would occur." Op. 7.

3. *Plaintiffs have adequately alleged a claim under KRS 411.150.*

Section 411.150 of the Kentucky Revised Statutes provides that “[t]he surviving spouse ... of a person killed by the careless, wanton or malicious use of a deadly weapon, not in self-defense, may have an action against the person who committed the killing *and all others aiding or promoting*, or any one (1) or more of them.” KRS 411.150 (emphasis added). In the context of this statute, the Court of Appeals of Kentucky has recognized that the plain meaning of aiding includes “furnishing strength or means to effect a purpose.” *Self v. Mantooth*, No. 2011-CA-001161, 2012 WL 4209929, at *5 (Ky. Ct. App. Sep. 21, 2012). Here, Plaintiffs Tutt, Barrick, Elliott, and Eckert are the surviving spouses of deceased victims of Sturgeon’s wanton and malicious use of a deadly weapon. *See* Am. Compl. ¶¶ 23-24, 74; Elliott Compl. ¶¶ 24, 26, 74. Magpul aided this killing by negligently distributing the large-capacity magazines and vertical grip that Sturgeon would employ to make his AR-15 even deadlier; in other words, Magpul furnished means to effect a purpose. *See* Am. Compl. ¶¶ 127, 163-64; Elliott Compl. ¶¶ 124, 151-52. Plaintiffs’ allegations thus fall within the plain text of KRS 411.150.

Magpul argues, as it did in its Motion to Dismiss, that liability under KRS 411.150 “requires some active participation in the killing” and that its own conduct does not meet that standard. Mem. 19-20 (quoting *Self*, 2012 WL 4209929, at *6). This argument lacks any support in either the text of the statute or other binding authority. Indeed, precedential case law points the other way: In *Commonwealth v. Hurt*, the widow of a man who was maliciously shot and killed by a sheriff’s deputy sued the sheriff under KRS 411.150, on the theory that the sheriff aided or promoted the killing by appointing an unfit deputy. 64 S.W. 911, 911-12 (Ky. 1901). The court rejected the claim but did so specifically because the deputy was not “doing anything in his official capacity, at the time of the killing.” *Id.* at 912. In other words, “the Court implied that, if [the deputy] had been acting in an official capacity, it might have found that [the sheriff], by appointing [the] deputy, had aided and promoted [the] killing.” *Self*, 2012 WL 4209929, at *5. The Kentucky Court of Appeals’ analysis makes clear that

KRS 411.150 does not require the defendant's active involvement in the killing itself; prior wrongful conduct that helped bring about the shooting may suffice.

4. *Plaintiffs' claim for punitive damages survives.*

In a single sentence, Magpul asserts that "the conclusory allegations in the Complaints do not come close to meeting the high threshold to justify punitive damages." Mem. 7-8. Magpul never develops or explains this argument, and this Court can quickly dispose of it.

Punitive damages may be awarded upon a showing of gross negligence. *Williams v. Wilson*, 972 S.W.2d 260, 262-65 (Ky. 1998). Plaintiffs allege that Magpul was grossly negligent in recklessly failing to implement reasonable controls on the sale of its products. *See* Am. Compl. ¶¶ 9, 78-85; Elliott Compl. ¶¶ 13-14, 77-84. Indeed, Plaintiffs allege that, instead of instituting controls, Magpul incentivized dealers to sell as many of its products as possible, regardless of whether it was safe to do so. *See* Am. Compl. ¶¶ 81-82; Elliott Compl. ¶¶ 80-81. These allegations constitute gross negligence—a "wanton or reckless disregard for the lives, safety, or property of others," *Gibson v. Fuel Transp., Inc.*, 410 S.W.3d 56, 59 (Ky. 2013) (citation omitted). Accordingly, as Judge Perry found, "if a jury believes the allegations asserted by the Plaintiffs, then punitive damages are proper." Op. 7.

CONCLUSION

For the foregoing reasons, Plaintiffs request that this Court deny Magpul's motion for judgment on the pleadings.

Respectfully Submitted,

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It is hereby certified that on July 2, 2026, a true and correct copy of the foregoing was filed using the Court's E-filing system, which will provide electronic service all counsel of record.

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COMMONWEALTH OF KENTUCKY
JEFFERSON CIRCUIT COURT
DIVISION VII
CIVIL ACTION NO. 24-CI-000518

DANA MITCHELL, et al.,

PLAINTIFFS

V.

RIVER CITY FIREARMS, INC., et al.,

DEFENDANTS

**ORDER DENYING DEFENDANT MAGPUL INDUSTRIES CORPORATION'S
MOTION FOR JUDGMENT ON THE PLEADINGS**

This matter is before the Court upon Defendant Magpul Industries Corporation's Motion for Judgment on the Pleadings. The Court having reviewed all documents submitted, heard arguments of counsel, and being otherwise sufficiently advised:

IT IS HEREBY ORDERED that the Motion for Judgment on the Pleadings is denied.

Dated: _____

JUDGE MELISSA LOGAN BELLOWS

Tendered By:

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