

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

CITY OF CHICAGO,

Plaintiff,

v.

GLOCK, INC., GLOCK Ges.m.b.H.,
EAGLE GUN CLUB LLC f/d/b/a EAGLE
SPORTS RANGE, RANGE PLUS LLC
f/d/b/a EAGLE SPORTS RANGE, 5900 LLC
d/b/a EAGLE SPORTS RANGE, and
MIDWEST SPORTING GOODS CO.,

Defendants.

Case No.: 2024CH06875

Hon. Allen P. Walker

**PLAINTIFF CITY OF CHICAGO'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS
OPPOSITION TO THE MOTIONS TO DISMISS OF (1) GLOCK, INC., (2) THE EAGLE
SPORTS RANGE DEFENDANTS, AND (3) MIDWEST SPORTING GOODS**

As permitted by the Court’s April 17, 2025 Order to create a clear record on the pending motions to dismiss, the City states as follows:

First, Glock’s new argument that this lawsuit is not an MCC enforcement action because “the City is seeking to regulate the conduct of Glock, Inc. in Georgia” is incorrect. Glock Supp. Authority Resp. (“Resp.”) at 2-3. The City brings this enforcement action under MCC § 2-25-090 solely in regard to Glock’s conduct directed at Chicago residents. *See, e.g.*, Compl. ¶¶ 16 (seeking to enjoin Glock from “continuing to sell its easily modified pistols to Chicago civilian residents through its website and Illinois guns stores that serve the Chicago market”); *see also id.* ¶¶ 122-23, 155-56. It is irrelevant where Glock’s manufacturing decisions are made since Glock chooses to advertise and sell its easily modified guns to Chicago residents.¹ Although Glock argued otherwise at the March 21 hearing, the City has alleged that Glock directs business into Chicago; at this stage, the Court must accept the City’s well-pleaded facts in the complaint as true.

Second, PLCAA’s predicate exception applies because Glock knowingly violated the Consumer Fraud Act’s prohibitions pertaining to the sale of firearms. Glock raises new authority to support its incorrect argument that the MCC cannot qualify as a “State statute.” Resp. at 3-4. Regardless, the City predicated each of its claims on violations of the Consumer Fraud Act, which is indisputably a state statute and is incorporated into the MCC. City Opp’n at 10-12; Glock Reply at 8 n.5. PLCAA case law is clear that the predicate statute does not need to be the cause of action. *See* City Opp’n at 11. This is because the predicate exception applies to “an action in which” a defendant knowingly violates a State or Federal statute, as opposed to “an action for” such a violation. *See Roberts v. Smith & Wesson Brands, Inc.*, No. 22 LA 00000487, slip op. at

¹ ““Trade or business in the City’ means the advertising, . . . offering for distribution, provision, or sale, sale, or lease of any good . . . and shall include any trade or business directly or indirectly affecting the people of the City.” MCC § 2-25-010 (as clarified in Dec. 2024 amendment).

18-19 (Ill. Cir. Ct. Apr. 1, 2025) (comparing 15 U.S.C. § 7903(5)(A)(iii), *with* (ii), *and* (iv)) (emphases in original). In any case, Glock’s reference to 100-plus-year-old cases to argue that an “ordinance” cannot be a “statute” fails, given that the Illinois Supreme Court recognized in 2009 that courts have interpreted the word “statute” in different ways and therefore courts must look at the context of the relevant legislation to determine its meaning. *See Landis v. Marc Realty, LLC*, 235 Ill. 2d 1, 10-12 (2009).

Contrary to Glock’s argument, Resp. at 5, Glock could—and did—“knowingly” violate sections 2DDDD(b)(1) and (b)(4) of the Consumer Fraud Act. It is well-established that a defendant can knowingly violate a statute so long as the defendant has knowledge of the *facts* constituting the offense; it does not need to know that its conduct is illegal. *See, e.g., U.S. v. Stein*, 712 F.3d 1038, 1040-41 (7th Cir. 2013) (collecting cases); *see also* City Opp’n at 15-16. Thus, for example, to violate section 2DDDD(b)(1), Glock only needed to know that its sale of easily modified Glocks to Chicago residents “create[d], maintain[ed], or contribute[d] to a condition in Illinois that endanger[ed] the safety or health of the public,” which the Complaint more than sufficiently alleges. Illinois courts have made clear that the legislature does not need to be overly prescriptive to give individuals adequate notice that their conduct is prohibited. *People v. Khan*, 136 Ill. App. 3d 754, 757-58 (1st Dist. 1985) (rejecting vagueness challenge to criminal housing management statute and explaining that a “laundry list” of restrictions is not required); *Scott v. Ass’n for Childbirth at Home, Int’l*, 88 Ill. 2d 279, 290-91 (1981) (rejecting vagueness challenge to the phrase “unfair practice” under the Consumer Fraud Act because, *inter alia*, “effective regulation requires that the concept [of unfairness] be flexible, defined on a case-by-case basis”) (citations omitted). Nothing in PLCAA changes this. City Opp’n at 14-15 (listing cases holding that state unfair and deceptive trade practices qualify as PLCAA predicate statutes).

Third, Glock incorrectly argues that *City of Chicago v. Beretta* and *Young v. Bryco Arms* mandate dismissal because 815 ILCS 505/2DDDD “was merely ‘declarative of existing law.’” Resp. at 5-6 (citing 815 ILCS 505/2DDDD(c)). Glock then extrapolates that the statutory duties in the Consumer Fraud Act “are the same as the common law duty” the Illinois Supreme Court rejected. *Id.* To start, Section 2DDDD(b)(1) is a new enactment as of 2023; the “declarative” language in subsection (c) applies only to “[p]aragraphs (2), (3) and (4) of subsection (b).” In any case, *Beretta* and *Young* involved common law public nuisance claims, for which there was no statutory analogue; the Court was not evaluating statutory duties under the Consumer Fraud Act.

Fourth, Glock’s new citation to *Association of N.J. Rifle & Pistol Clubs, Inc. v. Platkin* does not help its Second Amendment argument. Resp. at 6 (citing 742 F. Supp. 3d 421 (D.N.J. 2024), *appeal filed*, No. 24-2415 (3rd Cir. Aug. 6, 2024)). This case, which held that New Jersey’s assault weapon ban is unconstitutional as applied to the Colt AR-15, is an outlier, directly contrary to existing case law. *See e.g., Bevis v. City of Naperville*, 85 F.4th 1175 (7th Cir. 2023) (upholding Illinois’ assault weapons ban); *see also Pena v. Lindley*, 898 F.3d 969, 973 (9th Cir. 2018) (rejecting a claimed “constitutional right to purchase a particular handgun”). In any case, the Complaint alleges that Glock *could* change its guns to prevent their easy modification into machine guns but has simply refused to do so. *See* Compl. ¶¶ 14, 57. While Glock likens “banning one protected firearm” to outlawing a branch of religion, Resp. at 6, it fails to acknowledge that courts regularly allow prohibitions on the sale of specific types of firearms for safety reasons, including ghost guns, assault weapons, machine guns, and handguns lacking safety features. Indeed, the First Circuit recently rejected an argument similar to Glock’s. *See Capen v. Campbell*, --- F.4th ----, No. 24-1061, 2025 WL 1135269, at *11 (1st Cir. Apr. 17, 2025) (rejecting premise that outlawing “certain handguns with certain features is equivalent . . . to a law that bans all handguns as a class”).

Dated: May 1, 2025

Respectfully submitted,

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By: /s/ Chelsey B. Metcalf

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CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2025, I e-filed the foregoing document, which will cause the document to be served on all counsel of record.

/s/ Chelsey B. Metcalf
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