

FILED DATE: 7/1/2025 2:49 PM 2024CH06875

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 RESPONSE TO GLOCK, INC.’S  
MOTION FOR LEAVE TO FILE NOTICE OF SUPPLEMENTAL AUTHORITY**

As permitted by the Court during its June 30, 2025 hearing, Plaintiff City of Chicago responds to Defendant Glock, Inc.’s notice of supplemental authority regarding the U.S. Supreme Court’s decision in *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. ----; 145 S. Ct. 1556 (2025), and the Lake County Circuit Court’s certification of multiple questions for interlocutory appeal in *Roberts v. Smith & Wesson Brands, Inc.*, No. 22 LA 00000487.

1. The recent Supreme Court decision is inapposite.

In its filing, Glock urges this Court to rely on the Supreme Court’s recent decision in *Estados Unidos Mexicanos* to reject the City’s claims, which Glock contends are “essentially identical” to the allegations that the Supreme Court rejected. (Glock Mot. at 3). But Glock’s argument is based on a foundationally incorrect premise. The only question that the Supreme Court addressed was whether Mexico plausibly pled that the gun manufacturer defendants had aided and abetted unlawful gun sales to drug cartels in Mexico. *See Estados Unidos Mexicanos*, 145 S. Ct.

at 1562. The City’s claims here are based on entirely different theories than the federal aiding-and-abetting theory discussed at length in *Estados Unidos Mexicanos*. Accordingly, the Supreme Court’s holding does not apply in this case.

The Court began by observing that PLCAA’s predicate exception allows lawsuits to proceed against gun manufacturers when they “participate[ ] in the unlawful sale or marketing of firearms.” *Id.* And it noted that Mexico sought to satisfy this requirement by demonstrating that the defendants had violated the federal aiding-and-abetting statute, 18 U.S.C. § 2. *Id.* at 1562-63 (explaining that “dependence on aiding-and-abetting law is a feature of the case before us”); *see also id.* at 1565 (“[A]n aider and abettor must participate in a crime as in something that he wishes to bring about and seek by his action to make it succeed.”) (internal quotation marks and citation omitted). The Court ultimately concluded that Mexico had failed to plausibly allege the required elements of federal aiding and abetting and that required dismissal of the case. *Id.* at 1567-69.

But in contrast to the claims at issue in *Estados Unidos Mexicanos*, none of the City’s claims here depends on aiding-and-abetting law or any other type of accomplice liability. Rather, the City alleges that Glock *itself* engaged in unlawful conduct in the sale and marketing of its easily modified guns under local and state consumer protection laws. (Compl. ¶¶ 113-82). In addition to the *theories of liability* being distinct, the arguments made by the defendants in their motions to dismiss are different. Glock does not contend that the City fails to allege that Glock engaged in unreasonably dangerous, unfair, and/or deceptive sales and marketing practices under those laws but merely asserts (incorrectly) that the City’s claims must be dismissed due to the supposed absence of duty and proximate cause, (Glock Mot. to Dismiss at 22-25), neither of which was addressed by the Supreme Court in *Estados Unidos Mexicanos*.

Glock’s reliance on the Supreme Court’s discussion of “passive nonfeasance” is misplaced for the same reason. (Glock Mot. at 4). Whether a plaintiff has plausibly alleged federal criminal aiding-and-abetting by relying on a defendant’s passive inaction is not an issue that is before this Court. Contrary to Glock’s argument, the Supreme Court did not say anything about a case such as this one that alleges a principal’s liability for a violation of a predicate statute that creates duties that “the People . . . had chosen to impose.” *Estados Unidos Mexicanos*, 145 S. Ct. at 1571 (Jackson, J., concurring).

In addition, Glock characterizes the Supreme Court’s decision as setting strict criteria for the type of statutory violations that satisfy PLCAA’s predicate exception. (Glock Mot. at 4-5 (“suggest[ing] that the predicate exception can only be satisfied by the alleged violation of statutes specifically applicable to the sale or marketing of firearms like the provisions of the Gun Control Act . . .”). But the question of what constitutes a predicate statute was not before the Court. Because the plaintiff in the *Estados Unidos Mexicanos* case alleged that the defendants had aided and abetted various federal criminal firearms laws—which all parties agreed would satisfy the predicate exception—there was no need for the Court to address whether *different* types of statutes (i.e., statutes that are or are not specific to firearms) satisfy the predicate exception. *See, e.g.*, 145 S. Ct. at 1562-63, 1565. But in any case, the Consumer Fraud Act, as modified by the Firearms Industry Responsibility Act, 815 ILCS 505/2DDDD, *is* a statute that is specifically applicable to gun sales and marketing. (City Omnibus Opp. Br. at 12-13). In short, nothing in the Supreme Court’s decision mandates dismissal of the City’s case or changes existing caselaw (both state and federal) that addresses the scope of the predicate exception. (*See id.* at 10-15).

2. Certification of questions by the *Roberts* court does not affect proceedings in this case.

The City previously informed this Court of the dual decisions in *Roberts v. Smith & Wesson Brands, Inc.* and takes no issue with Glock's notification that the trial judge in that case recently certified multiple questions for appeal. The City notes however that nothing in the certification orders undermines its argument in this case—or the plaintiffs' argument in *Roberts*—that the Consumer Fraud Act, as amended by the Firearms Industry Responsibility Act, qualifies as a predicate statute and is constitutional. The plain text of PLCAA's predicate exception as well as numerous decisions from federal courts and non-Illinois state courts make this clear. (See City Omnibus Opp. Br. at 10-15, 20-28). The trial court in *Roberts* held that there were “substantial grounds for differences of opinion” on these questions based *only* on the absence of Illinois appellate authority on the issues, (Ex. A at 5; Ex. B at 5), but it did not cast doubt on the validity of its ruling.<sup>1</sup> The decisions continue to be good law and the parties in the *Roberts* case are moving forward with discovery while the defendants seek interlocutory appeal.<sup>2</sup> At this time, it is not clear whether the Second District will accept interlocutory appeal on any of those questions. Thus, it is unclear at this stage what *if any* relevance any potential interlocutory appeal in *Roberts* would have on the pending motions to dismiss in this case.

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<sup>1</sup> The fifth and sixth questions that Glock highlights in its motion, (Glock Mot. at 6), are not relevant to this case, as the City is suing Glock for conduct that is ongoing *after* August 14, 2023, and this case does not involve a municipal ordinance banning the possession of certain firearms.

<sup>2</sup> Glock fails to mention that the *Roberts* court declined to certify numerous questions. For example, the court declined to certify “[w]hether a municipal ordinance is a state statute for the purposes of the predicate exception,” because “[t]here is no difference of opinion in the appellate or supreme court as to [PLCAA's] plain text” and its definition of the word “State.” (Ex. A at 2, 4). Additionally, the *Roberts* court declined to certify questions related to duty and proximate cause, which are relevant to the Court's disposition of the pending motions to dismiss. (Ex. A at 2-4; Ex. B at 3-4).

In any event, this case is a public enforcement action that involves important and time-sensitive issues of public safety. Any unnecessary delay in moving forward would hinder the City's efforts to curb the ongoing Glock switch crisis in Chicago.

Dated: July 1, 2025

Respectfully submitted,

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By: /s/ Chelsey B. Metcalf

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**ATTORNEYS FOR PLAINTIFF  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 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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