

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

<p>CITY OF CHICAGO, an Illinois municipal corporation,</p> <p>Plaintiff,</p> <p>v.</p> <p>GLOCK, INC., a Georgia corporation; GLOCK Ges.m.b.H., an Austrian company; EAGLE GUN CLUB LLC f/d/b/a EAGLE SPORTS RANGE, an Illinois company; RANGE PLUS LLC f/d/b/a EAGLE SPORTS RANGE, an Illinois company; 5900 LLC d/b/a EAGLE SPORTS RANGE, an Illinois company, and MIDWEST SPORTING GOODS CO., an Illinois corporation,</p> <p>Defendants.</p>	<p>Civil Action No. 2024CH06875</p>
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**DEFENDANTS GLOCK, INC.’S AND GLOCK Ges.m.b.H.’S MEMORANDUM OF LAW
IN SUPPORT OF THEIR MOTION FOR (1) CERTIFICATION OF ISSUES FOR
INTERLOCUTORY APPEAL PURSUANT TO RULE 308 AND (2) TO STAY
DISCOVERY**

Defendants Glock, Inc. and Glock Ges.m.b.H. (collectively referred to as “Glock”), by their undersigned counsel, respectfully submit this memorandum of law in support of their motion requesting that this Court certify for purposes of interlocutory appeal certain questions of law at issue in this Court’s September 18, 2025 Order denying defendants’ motions to dismiss (“Order”), and extend the stay of discovery entered on January 29, 2025 pending the ultimate resolution of this motion.

The issues addressed in the Order easily satisfy the requirements for certification pursuant to Rule 308. The Order involves the construction of a federal immunity statute that was recently

construed by the U.S. Supreme Court, but has never been addressed by the appellate courts of Illinois. It also involves the rejection of decisions by the Illinois Supreme Court regarding duty and proximate cause in the context of firearm manufacturers and misuse of firearms by third party criminals based on the subsequent enactment of a state statute that has never been addressed by Illinois appellate courts. Given the significance of these issues, the substantial grounds for a difference of opinion, and the important rights provided by immunity statutes, it is appropriate to certify the Order for an interlocutory appeal and maintain the stay of discovery.

INTRODUCTION

This lawsuit arises from third party criminals illegally converting Glock semi-automatic pistols to fire fully automatic through the installation of a machinegun conversion device (“MCD”) and then using those Modified Glock Pistols to commit crimes. Glock manufactures and sells the most popular pistols in America, the popularity of which is due in part to the simplicity of the design of their operating system, which has remained consistent since they were invented in the 1980s and results in the utmost reliability. Like all semi-automatic firearms, Glock pistols can be illegally converted to fire fully automatic through the installation of a MCD, which is itself considered to be an illegal machinegun. Although MCDs for Glock pistols have been around almost as long as the pistols themselves, in recent years, the Complaint alleges that an increasing number of criminals in Chicago have been illegally installing MCDs into Glock pistols to make Modified Glock Pistols.

This Court concluded that Glock could be held liable under Section 2-25-090(a) of the Municipal Code of Chicago (“MCC”), and the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2DDDD(b)(1) & (4) (“ICFA”) because “[d]espite knowing the potential for criminal misuse ... Glock refuses to implement simple design modifications that could

significantly mitigate the issue.” Order at 1. This Court further held that the ICFA satisfies the predicate exception to the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §§ 7901-03 (“PLCAA”), because the amendments made by the Firearms Industry Responsibility Act (“FIRA”), “demonstrate an intent to regulate the firearms industry through ICFA by imposing liability for gun industry members who knowingly endanger the safety or health of the public through their conduct.” Order at 7. This Court further held that the ICFA is not unconstitutional on the basis that it violates the Commerce Clause, is vague in violation of the due process clause, and violates the Second Amendment. Order at 9-13. Finally, this Court held that Glock could be held liable for violating Section 2-25-60(a) and the ICFA despite the holdings by the Illinois Supreme Court in the cases of *City of Chicago v. Beretta U.S.A. Corp.*, 821 N.E.2d 1099 (Ill. 2004) and *Young v. Bryco Arms*, 821 N.E.2d 1078, 1082 (Ill. 2004), that there is no duty owed by firearm manufacturers to those harmed by third parties using firearms to commit crimes, and no proximate cause between the sale of firearms by firearm manufacturers and the harm caused by the subsequent criminal misuse of such firearms by third parties. Order at 13-17.

In order to preserve the immunity provided by the PLCAA from having to even present a defense on the merits to a qualified civil liability action, and based on the substantial ground for difference of opinion regarding whether the City’s claims are allowed by the PLCAA and state a claim upon which relief can be granted pursuant to Illinois law, this Court should certify the Order for an interlocutory appeal pursuant to Rule 308. In addition, this Court should continue the stay of discovery entered by the January 29, 2025 Order pending resolution of this motion and, if granted, disposition by the Illinois Appellate Court.

ARGUMENT

Pursuant to Illinois Supreme Court Rule 308(a):

When the trial court, in making an interlocutory order not otherwise appealable, finds that the order involves a question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the court shall so state in writing, identifying the question of law involved. Such a statement may be made at the time of the entry of the order or thereafter on the court's own motion or on motion of any party. The Appellate Court may thereupon in its discretion allow an appeal from the order.

There are numerous issues of law addressed in the Order about which there are substantial grounds for disagreement and reversal on any of those grounds would result in the dismissal of the City's claims, thereby materially advancing the termination of the litigation. Accordingly, the requirements for Rule 308 certification are satisfied. *See generally De Bouse v. Bayer*, 235 Ill. 2d 544, 561 (2009); *Walker v. Carnival Cruise Lines, Inc.*, 383 Ill. App. 3d 129, 133. The Order involved the resolution of a motion to dismiss, which assumes all of the well-pled factual allegations in the Complaint to be true, and therefore involves pure questions of law, including the proper construction of the PLCAA and the ICFA and the constitutionality of the ICFA. Such questions of law are subject to de novo review under Rule 308. *Mosby v. Ingalls v. Mem'l Hosp.*, 2023 IL 129081, ¶ 29 (2023).

I. THERE ARE SUBSTANTIAL GROUNDS FOR DISAGREEMENT WITH THIS COURT'S HOLDING THAT PLAINTIFFS' CLAIMS AGAINST GLOCK, INC. ARE NOT BARRED BY THE PLCAA.

The PLCAA prohibits the institution of a "qualified civil liability action" in any state or federal court. 15 U.S.C. § 7902(a). The PLCAA provides substantive immunity from being sued, not just a defense from liability. As such, whether its immunity applies must be decided at the earliest available opportunity. In order to effectuate the federal policy against requiring members of the firearms industry to defend against qualified civil liability actions and enforce the

substantive immunity provided by the PLCAA, appellate courts have consistently granted discretionary review of orders denying motions to dismiss pursuant to the PLCAA based on the pleadings, as sought in this motion. Most recently, in *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280 (2025) (“*S&W*”) the Supreme Court granted certiorari to review a decision that had reversed an order dismissing a complaint on the pleadings and held that the immunity afforded by the PLCAA required dismissal on the pleadings. Similarly, in *In re Academy, Ltd.*, 625 S.W.3d 19, 35-36 (Tex. 2021), the Texas Supreme Court unanimously granted mandamus to review an interlocutory trial court order that required a firearms industry member to defend a lawsuit on the merits from which it sought dismissal based on PLCAA immunity. Interlocutory appellate review of orders denying PLCAA immunity has been consistent since the PLCAA was enacted almost twenty years ago. In *City of New York v. Beretta U.S.A. Corp.*, 524 F.3d 384 (2d Cir. 2008), the Second Circuit reviewed an interlocutory order denying a motion for judgment on the pleadings in a case that had been ready for trial shortly before the PLCAA was enacted. There are numerous legal issues regarding the PLCAA in the Order about which there are substantial grounds for disagreement.

This Court held that the amendments that FIRA made to the ICFA demonstrated that Illinois intended to use the ICFA to regulate the firearms industry. Despite having been amended to make it applicable to the firearms industry, the ICFA is a statute of general applicability that does not specifically regulate the manner in which firearms are sold and marketed. The Supreme Court’s unanimous decision in *S&W* indicated that not only do predicate statutes have to specifically regulate the firearms industry, but they are limited to statutes such as the provisions of the federal Gun Control Act that Congress cited as examples in the predicate exception itself, 605 U.S. at 286 (“gun-sale violation” and “federal gun crime”); 288 (sales that “violate federal

gun laws”); 291 (“firearms offenses”); 294 (“unlawful sales of firearms”); 298 (“firearms violation”).

No Illinois appellate courts have considered the PLCAA, but the two federal appellate courts to have done so both held that statutes of general applicability do not satisfy the predicate exception simply because they also apply to the firearms industry. In *Ileto v. Glock, Inc.*, the Ninth Circuit Court of Appeals held that only “statutes that regulate manufacturing, importing, selling, marketing, and using firearms or that regulate the firearms industry” can be used to satisfy the predicate exception. 565 F.3d 1126, 1136 (9th Cir. 2009) (rejecting an attempt to use a nuisance statute, Cal. Civil Code § 3479, to satisfy the predicate exception). Similarly, in *City of New York v. Beretta U.S.A. Corp.*, the Court of Appeals for the Second Circuit held that the predicate exception can be satisfied only by the violation of statutes that: (1) “expressly regulate firearms”; (2) “courts have applied to the sale and marketing of firearms”; or (3) “clearly can be said to implicate the purchase and sale of firearms.” 524 F.3d 384, 404 (2d Cir. 2008) (rejecting an attempt to use a nuisance statute, N.Y. Penal Law § 240.45(1), to satisfy the predicate exception). The provision in Section 2DDDD(b)(1) of the ICFA is substantively no different than the nuisance statutes at issue in the *Ileto* and *City of New York* cases and Section 2DDD(b)(4) does not contain specific requirements for the sale and marketing of firearms either. There is a substantial ground for a difference of opinion regarding whether the ICFA is the type of statute applicable to the sale and marketing of firearms, the alleged violation of which is capable of satisfying the predicate exception, simply based on adding a reference to firearms to a statute of general applicability, and whether Congress intended to allow states to essentially negate the immunity provided by the PLCAA in such a manner. This is also an important federalism issue that Illinois appellate courts should have the ability to decide at the beginning of a case given the immunity at issue. Given

that the ICFA is the only statute this Court held could satisfy the predicate exception, resolution of this issue in favor of Glock, Inc. would advance the ultimate termination of the litigation by requiring the dismissal of all claims against it.

This Court also concluded that the predicate exception’s requirement that the defendant have “knowingly violated” a statute was satisfied based on the City’s allegation that “Defendants knowingly violated the MCC and ICFA,” and stating that it was “[a]ccepting these factual allegations as true[.]” Order at 7. There were no factual allegations sufficient to establish that Glock had knowingly violated the ICFA, just a conclusory allegation that the predicate exception’s requirement that a statute had been “knowing violated” was satisfied. There are substantial grounds for a difference of opinion on this issue. First, the Supreme Court has repeatedly held that “knowingly,” when used in the manner in the predicate exception, requires “showing that the defendant knew his conduct to be unauthorized by statute or regulations.” *Liparota v. United States*, 471 U.S. 419, 425 (1985) (interpreting a statute imposing penalties on “whoever knowingly uses . . . authorization cards in any manner not authorized by [the statute] or the regulations”); *see also Ruan v. United States*, 597 U.S. 450, 454 (2022) (interpreting a statute making it a federal crime “for any person knowingly or intentionally” to “manufacture, distribute, or dispense . . . a controlled substance” “[e]xcept as authorized”); *Rehaif v. United States*, 588 U.S. 225, 229 (2019) (interpreting a statute imposing heightened penalties on anyone who “knowingly violates” certain provisions). Stated differently, when the law requires a “knowing” violation, knowledge of the *unlawfulness* of the action is critical, *Liparota*, 471 U.S. at 426, and there are no facts pled that would demonstrate that Glock was aware that it was violating the ICFA simply by continuing to manufacture and sell Glock pistols because they could be illegally converted to machineguns through the installation of an MCD. Second, in its *S&W* decision, the Supreme Court noted that

the “core purpose” of the PLCAA was to “halt a flurry of lawsuits attempting to make gun manufacturers pay for the downstream harms resulting from misuse of their products,” and warned against broadly construing the exceptions to the PLCAA in “such a capacious way” that they would “swallow most of the rule.” 605 U.S. at 298-99. By essentially eliminating the “knowingly violated” requirement from the predicate exception by allowing it to be overcome through a conclusory allegation, the Order substantially weakened the protections provided by the PLCAA by essentially eliminating the “knowingly violated” requirement of the predicate exception.

II. WHETHER A FEDERAL FIREARMS LICENSEE OWES A DUTY TO PERSONS WHO COULD BE HARMED BY THE CRIMINAL MISUSE OF SUCH FIREARMS BY THIRD PARTIES.

Although it did not directly address Glock’s argument that it did not breach any duty owed to the City based on the continued sale of the current design of Glock pistols that allows them to be illegally modified to machineguns through the installation of an MCD and then used to commit crimes by third parties on the basis that “Illinois law does not recognize a duty on the part of firearm manufacturers ... to prevent criminal misuse of their products by third parties,” Order at 13, this Court necessarily found such a duty to be owed. There is substantial ground for difference of opinion whether Glock owed a duty to the City based on the Illinois Supreme Court’s decision that federal firearms licensees “owe no duty . . . to prevent their firearms from ending up in the hands of persons who use and possess them illegally.” *City of Chicago*, 213 Ill. 2d at 393-94; *see also Linton v. Smith & Wesson, a Div. of Bangor Punta Corp.*, 127 Ill. App. 3d 676, 678 (1984) (firearm industry member did not owe duty to use “reasonable means to prevent the sale its handguns to persons who are likely to cause harm to the public”). Resolution of this issue in favor of Glock would materially advance the termination of the litigation because it would result in the dismissal of all of Plaintiffs’ claims against Glock.

III. WHETHER THE MANUFACTURE AND SALE OF LEGAL FIREARMS THAT CAN BE ILLEGALLY MODIFIED IS A PROXIMATE CAUSE OF CRIMES COMMITTED BY THIRD PARTIES USING THOSE FIREARMS.

This Court held that Glock's sale of the Glock pistols was a proximate cause of the City's damages because Glock "manufacture[s] and sell[s] Glock pistols that are easily modifiable into fully automatic weapons and are advertised to encourage unlawful modifications," and that "such misuse was foreseeable, as Defendants have long known that their handguns could be readily altered with an auto sear, yet failed to adopt adequate safeguards or design changes[.]" Order at 9. Proximate cause is a legal issue and there is substantial ground for difference of opinion whether Glock's sale of its pistols is a proximate cause of the City's damages based on the Illinois Supreme Court's decisions in the cases of *City of Chicago*, 213 Ill. 2d at 395-414, and *Young v. Bryco Arms*, 213 Ill. 2d 433, 449, 455 (2004) that the transfer of firearms between federal firearms licensees is not the proximate cause of harm caused by criminal shootings because it merely creates a condition by which damages can be caused by the criminal use of such firearms by third parties. Such holding is substantively no different than Glock's sale of its legal semi-automatic pistols to federal firearms licensees for resale simply because third party criminals can illegally modify them into machineguns through the installation of an MCD before using them to commit additional crimes, and whether the enactment of the ICFA changed the Illinois Supreme Court's holding regarding the lack of proximate cause between the sale of firearms and their criminal misuse has not yet been addressed by Illinois appellate courts. Resolution of this issue in favor of Glock would materially advance the termination of the litigation because it would result in the dismissal of all of the City's claims against Glock. It is also relevant to Glock, Inc.'s immunity pursuant to the PLCAA because the predicate exception is not satisfied if the statutory violation was not a proximate cause of the harm for which the City seeks relief. 15 U.S.C. § 7903(5)(A)(iii).

IV. WHETHER THE MANUFACTURE AND SALE OF LEGAL FIREARMS THAT CAN BE ILLEGALLY MODIFIED VIOLATES SECTION 2-25-090 OF THE MCC AND THE ICFA

This Court concluded that by continuing to sell Glock pistols with their original design that allows a third party to illegally convert them to machineguns by installing MCDs, Glock could be held liable for violating Section 2-25-090(a) of the MCC and the IFCA. This Court further concluded that by not changing the design of its pistols to make it more difficult for third party criminals to illegally convert them, Glock could be held liable for both engaging in conduct unreasonable under all circumstances and unfair or deceptive acts or practices for purposes of the ICFA. There are substantial grounds for difference of opinion whether Glock not changing the design of its pistols violated MCC § 2-25-090(a) and the IFCA for numerous reasons. First, as discussed above, there are questions regarding whether Glock owes a duty to redesign its pistols to prevent their illegal modification, and whether continuing to sell them with the current design is a proximate cause of the harm for which the City seeks relief. Second, the ICFA has not yet been construed by Illinois appellate courts and there is reason to believe that it is not intended to serve as the basis to require a firearms manufacturer to change the design of a legal, semi-automatic pistol, or impose liability for not doing so. As discussed below, such a construction renders the ICFA unconstitutional. Resolution of this issue in favor of Glock would materially advance the termination of the litigation because it would necessarily result in the dismissal of the City's claims against it because those are the statutes pursuant to which the City seeks relief.

V. WHETHER THE ICFA IS CONSTITUTIONAL AS APPLIED TO THE SALE OF GLOCK PISTOLS

If the ICFA is read to require Glock to change the design of its pistols to prevent them from being illegally converted to machineguns by third parties through the installation of an MCD and allow it to be held liable for not doing so (including the issuance of injunctive relief prohibiting Glock pistols from being sold to civilian consumers) there are substantial grounds for difference of opinion regarding its constitutionality. First, the ICFA allows Glock to be held liable for the “sale, manufacturing, importing, or marketing” of Glock pistols outside of Illinois in full compliance with applicable law, simply because a third party brings them to Illinois. Because the ICFA allows liability to be imposed for conduct occurring entirely outside of, and not intentionally directed at Illinois, there are substantial grounds for difference of opinion regarding whether it violates the dormant commerce clause. *Nat’l Pork Producers Council v. Ross*, 598 U.S. 356, 376 n.1 (2023); *Legato Vapors, LLC v. Cook*, 847 F.3d 825, 830 (7th Cir. 2017).

The ICFA is also void for vagueness in violation of the due process clause because prior to the filing of the City’s complaint, nothing in the ICFA would have remotely suggested that Glock could be held liable simply for continuing to sell its pistols with their original design because third parties had developed MCDs that allow them to be illegally converted to machineguns. A statute that prohibits or requires certain conduct “in terms so vague that men of common intelligence must necessarily guess at its meaning . . . violates the first essential of due process.” *Connally v. Gen. Constr. Co.*, 269 U.S. 385, 391 (1926). A more “stringent” vagueness test applies for statutes that “threaten[] to inhibit the exercise of constitutionally protected rights,” or that provide for “quasi-criminal” penalties. *Vill. of Hoffman Ests. v. Flipside, Hoffman Ests., Inc.*, 455 U.S. 489, 499 (1982). The ICFA is subject to the more stringent vagueness requirement because it implicates the Second Amendment right to keep and bear arms, and provides for fines, which

are quasi-criminal penalties. There are substantial grounds for difference of opinion whether the ICFA is unconstitutionally vague under any test.

Finally, the City seeks to use the ICFA as the basis to prohibit the sale of Glock pistols with their current design to all “non-law enforcement Chicago residents” and “Illinois gun stores that serve the Chicago market.” Compl. at 66 ¶ i. There are substantial grounds for difference of opinion regarding whether such relief would violate the Second Amendment because it would prohibit customers in Chicago from being able to keep and bear legal handguns, and there is no historical tradition of banning legal firearms simply because they could later be illegally modified by third parties into prohibited firearms. *N.Y. State Rifle & Pistol Ass’n v. Bruen*, 142 S. Ct. 2111, 2126 (2022); *District of Columbia v. Heller*, 554 U.S. 570, 628-29 (2008); *Atkinson v. Garland*, 70 F.4th 1018, 1020 (7th Cir. 2023).

Resolution of this issue in favor of Glock would materially advance the termination of the litigation, because if the ICFA is declared to be unconstitutional on any of the above three grounds, it would require the dismissal of the City’s claims against Glock.

VI. DISCOVERY SHOULD REMAIN STAYED PENDING ULTIMTE RESULTUION OF THE MOTION FOR LEAVE TO APPEAL

On January 29, 2025, this Court entered an Order granting defendants’ motions to stay discovery pending resolution of the motions to dismiss. This Court should continue the stay of discovery pending the ultimate resolution of Glock’s motion to certify the Order for an interlocutory appeal pursuant to Rule 308. Although the filing of a Rule 308 motion does not automatically result in further proceedings in the trial court being stayed, it specifically provides that the trial court may order that further proceedings be stayed. Ill. Sup. Ct. Rule 308(f). This Court previously stayed discovery based on caselaw holding that it is appropriate to stay discovery pending a decision on a motion to dismiss that involves legal issues for which discovery is not

needed for the opposing party to respond. *See generally RN Acquisition, LLC v. Paccar Leasing Co.*, 214 N.E.3d 296, 303 (Ill. App. Ct. 2022); *DOD Technologies v. Mesirov Ins. Svcs., Inc.*, 887 N.E.2d 1, 13 (Ill App. Ct. 2008); *Redelmann v. Claire Sprayway, Inc.*, 874 N.E.2d 230, 244 (Ill. App. Ct. 2007); *Evitts v. DaimlerChrysler Motors Corp.*, 834 N.E.2d 942, 952 (Ill. App. Ct. 2005); *Adkins Energy, LLC v. Delta-T Corp.*, 806 N.E.2d 1273, 1279 (Ill. App. Ct. 2004). Given that Glock is now requesting that the Order be certified for an interlocutory appeal, it is appropriate to continue the stay of discovery pending the resolution of that motion. *James v. Geneva Nursing and Rehabilitation Center, LLC*, 2024 IL 130042 ¶ 11 (trial court stayed discovery pending a Rule 308 motion for interlocutory review of an order denying a motion to dismiss based on immunity pursuant to an executive order related to COVID-19); *Joiner v. SVM Mgmt., LLC*, 2020 IL 124671 ¶¶ 5-8, 13 (trial court properly extended the stay of discovery to allow defendant to file a Rule 308 certification motion). If this Court grants the motion to certify and the Appellate Court accepts a subsequent petition, it would review the Order de novo and therefore there would be no need for the City to obtain discovery to respond to the petition.

Extending the stay is particularly appropriate given that several of the issues sought to be addressed in the interlocutory appeal concern substantive immunity from having to present a defense to the City's claims on the merits pursuant to the PLCAA. Whether a defendant is immune from suit is a threshold question to be resolved at the earliest possible stages of litigation. *Saucier v. Katz*, 533 U.S. 194, 201 (2001). Immunity is immunity from being sued, not merely from being held liable and must be decided before discovery is allowed because immunity is effectively lost if a defendant entitled to immunity is required to present a defense on the merits. *Pearson v. Callahan*, 556 U.S. 223, 231-32 (2009). *See also Saucier*, 533 U.S. at 200 (Immunity is, after all, "an entitlement to not stand trial or face the other burdens of litigation."). The question of whether

a defendant has immunity from suit should be made “as early in the case as possible” because “to defer the question is to frustrate [the] significance and benefit” of the immunity provided to the defendant. *Phoenix Consulting, Inc. v. Republic of Angola*, 216 F.3d 36, 39 (D.C. Cir. 2000). Congress plainly intended the PLCAA to provide substantive immunity from being sued, and not merely a defense to be addressed following discovery. In fact, lawsuits against firearm manufacturers that were pending when the PLCAA became law were to “be immediately dismissed.” 15 U.S.C. § 7902(b). In accordance with that directive, courts dismissed qualified civil liability actions that were pending on the date of the PLCAA’s enactment on the pleadings without any further discovery being conducted. *See, e.g., Iletto v. Glock, Inc.*, 565 F.3d 1126 (9th Cir. 2009); *District of Columbia v. Beretta U.S.A. Corp.*, 940 A.2d. 163 (D.C. 2008); *Estate of Charlot v. Bushmaster Firearms, Inc.*, 628 F. Supp. 2d 174 (D.D.C. 2009).

The immunity from being sued and having to present a defense against a qualified civil liability that the PLCAA provides to Glock, Inc. will be effectively lost if it is required to respond to the City’s discovery requests and litigate this case on the merits. Although the Order held that the City’s claims satisfy the predicate exception to the PLCAA, as explained above, there is substantial ground for difference of opinion regarding whether the City’s claims are prohibited by the PLCAA, or otherwise fail to state a claim upon which relief can be granted. Accordingly, if discovery is stayed and the Appellate Court ultimately concludes that the City’s claims must be dismissed, the purpose of the immunity provided by the PLCAA will have been preserved. In contrast, if the Appellate Court concludes that the City’s claims are prohibited by the PLCAA, Glock, Inc. will have been deprived of the immunity provided by the PLCAA by having to respond to discovery and defend this case on the merits in the interim.

If the Appellate Court denies a petition for interlocutory review from questions certified

by this Court, the duration for which discovery will be stayed will be very limited. This is because Glock's petition for leave to appeal must be filed within thirty days of an order from this Court certifying questions pursuant to Rule 308, the City's answer must be filed within twenty-one days of the petition, and the Appellate Court generally issues its decision within thirty days thereafter. Ill. Sup. Ct. Rule 308(b)-(d). Accordingly, if the Appellate Court decides that issues certified pursuant to Rule 308 related to the Order do not justify interlocutory review, such decision would be rendered within less than three months of an order from this Court certifying questions pursuant to Rule 308. In contrast, if the Appellate Court grants the petition for interlocutory review of the Order, a stay of discovery pending its ultimate decision on the appeal would be justified because it would have agreed that there are substantial grounds for disagreement with the Order and, if reversed, discovery would not be necessary.

CONCLUSION

For the foregoing reasons, Glock respectfully requests that this Court certify the following questions of law, or such modified or additional questions as it deems proper, related to the Order such that Glock may pursue an interlocutory appeal:

1. Do the City's claims against Glock, Inc. constitute a qualified civil liability action from which the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §§ 7901-03 ("PLCAA") provides it with immunity because the predicate exception does not apply?
2. Is the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2DDDD(b)(1) & (4) ("ICFA") the type of state statute applicable to the sale or marketing of firearms the alleged violation of which can satisfy the predicate exception to the PLCAA?

3. Can conclusory allegations that a defendant “knowingly” violated the ICFA satisfy the predicate exception’s requirement that the defendant have knowingly violated the applicable statute, as opposed to well-pled factual allegations sufficient to establish that the statute was knowingly violated?
4. Does a manufacturer of firearms owe a duty to a municipality that may be harmed as a result of third party criminals illegally converting semi-automatic pistols into machineguns though the installation of a machinegun conversion device (“MCD”) and using them to commit crimes to change the design of its pistols to prevent their illegal conversion?
5. Is a firearm manufacturer’s continued sale of semi-automatic pistols without changing their design to make it more difficult to install an MCD a proximate cause of harm resulting from the conversion of such pistols to machineguns by third parties who then use them to commit crimes?
6. Does the continued sale and marketing of legal, semi-automatic pistols that can be illegally converted to machineguns by third parties through the installation of an MCD constitute “conduct unreasonable under all circumstances” for purposes of the ICFA?
7. Does the continued sale and marketing of legal, semi-automatic pistols that can be illegally converted to machineguns by third parties through the installation of an MCD constitute “unfair or deceptive acts or practices” for purposes of the ICFA?
8. Does imposing liability based on the design, manufacture, and sale of firearms entirely outside of Illinois pursuant to the ICFA violate the dormant commerce clause?
9. Are references to conduct “unreasonable under all circumstances, including failing to establish or utilize reasonable controls” unconstitutionally vague if read to allow a firearms

manufacturer to be held liable for continuing to sell legal, semi-automatic pistols because third parties can illegally convert them to machineguns through the installation of MCDs?

10. Does banning the sale of the most popular handguns in the United States because third party criminals can illegally convert them to machineguns violate the Second Amendment?

Glock further requests that this Court grant its motion to stay discovery pending the ultimate resolution of its motion to certify the Order for interlocutory appeal, and grant such additional relief as it deems just and proper.

Dated: October 16, 2025

Respectfully submitted,

By: /s/ Richard J. Leamy, Jr.
Richard J. Leamy, Jr.
WIEDNER McAULIFFE, LTD.
One North Franklin Street, 19th Floor
Chicago, IL 60606
Telephone: (312) 855-1105
Email: rjleamy@wmlaw.com
Firm No. 60224

– and –

John F. Renzulli (*pro hac vice*)
Christopher Renzulli (*pro hac vice*)
Scott C. Allan (*pro hac vice*)
RENZULLI LAW FIRM, LLP
One North Broadway, Suite 1005
White Plains, New York 10601
Telephone: (914) 285-0700
Email: jrenzulli@renzullilaw.com
crenzulli@renzullilaw.com
sallan@renzullilaw.com

Attorneys for Glock, Inc. and Glock Ges.m.b.H.