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**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 OPPOSITION TO: (1) DEFENDANT MIDWEST SPORTING GOODS CO.’S MOTION TO CERTIFY ISSUES FOR INTERLOCUTORY APPEAL AND DISCOVERY STAY; AND (2) THE EAGLE SPORTS DEFENDANTS’ MOTION TO ADOPT OTHER DEFENDANTS’ 308 MOTIONS¹

Illinois Supreme Court Rule 308 permits courts to certify questions for interlocutory appeal in limited and exceptional circumstances: when “the [underlying] 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.” These requirements are strictly construed. Yet, Midwest ignores these parameters, asking the Court to certify four questions, all of which are fact-dependent, and none of which involve substantial grounds for a difference of opinion or would materially advance the ultimate termination of the litigation. Most remarkably, Midwest also seeks to certify certain questions which it did not move on and *which*

¹ Eagle Gun Club LLC, Range Plus LLC and 5900 LLC (the “Eagle Sports Defendants”) sought leave to adopt the Rule 308 motions of Defendants Glock and Midwest, and to join those Defendants’ request to stay discovery. The Eagle Sports Defendants raised no additional arguments of their own. For all of the reasons herein and in the City’s opposition to Glock’s Rule 308 motion, the Eagle Sports Defendants’ motion should be denied.

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the Court’s order denying the motion to dismiss does not address—a threshold requirement of Rule 308. In essence, Midwest has filed not a Rule 308 motion, but a second motion to dismiss. Rule 308 bars exactly what Midwest tries to do here.

Each of Midwest’s four questions ask whether its representations and failures to disclose constitute unreasonable, unfair, and/or deceptive acts under the law, or whether holding it liable for such misrepresentations and omissions is unconstitutional:

Question 1: Are MCC Section 2-25-090 and 815 ILCS 505/2DDDD(b)(1) & (4) unconstitutionally vague and violative of due process as applied to Midwest such that a person of ordinary intelligence would not understand that either describing a firearm as “safe” or failing to notify customers of potential criminal uses of the firearm constitutes a violation of these provisions?

Question 2: Does the First Amendment prohibit application of MCC Section 2-25-090 and 815 ILCS 505/2DDDD(b)(1) & (4) to prohibit Midwest from describing Glock firearms as “safe” or requiring Midwest to notify customers of potential criminal uses of the firearm violate Midwest protections under the First Amendment?

Question 3: Do MCC Section 2-25-090 and 815 ILCS 505/2[DDDD](b)(1) & (4) prohibit federally licensed firearms retailers from describing non-defective firearms as “safe” or require federally licensed firearms retailers to notify customers of potential criminal uses of the firearms that they sell.

Question 4: Does public policy allow imposition of an obligation upon sellers of legal, non-defective products to inform customers of ways that they might illegally alter or use the products?

The answers to these questions are inherently fact-dependent, as they require an application of the law to the facts, which Rule 308 does not allow. *See Rozsavolgyi v. City of Aurora*, 2017 IL 121048, ¶ 21 (“Certified questions must not seek an application of the law to the facts of a specific case.”). Yet Midwest’s motion does not even acknowledge this requirement, which is alone fatal to its motion. Further, even as to the legal issues involved in the fact-dependent questions, those are well-established under binding precedent. Additionally, answering Midwest’s questions will not materially advance the termination of the litigation: Midwest only seeks to certify questions

relating to its representations and its material omissions. But the unreasonableness and unfair claims brought against Midwest (Counts I and II) also challenge its *sale* of easily modified guns, separate from its misrepresentations related to safety and failures to disclose the extreme dangers to Chicagoans and their communities. A question needs to meet all three of Rule 308's requirements to qualify for certification; Midwest's meet none.

For the aforementioned reasons and those that follow, the City requests that the Court deny Midwest's motion for certification. However, if the Court determines that any of the questions are appropriate for certification, it should allow discovery to continue during the appeal, as Rule 308 expressly contemplates. *See* Ill. S. Ct. R. 308(f).

LEGAL STANDARD

“[T]he review of cases at an interlocutory stage is not favored.” *Rozsavolgyi*, 2017 IL 121048, ¶ 22. Thus, the general rule is that only final orders are subject to appellate review. *See* Ill. S. Ct. R. 301. Rule 308 allows for interlocutory appellate review of certified questions outside of the usual process in “certain exceptional circumstances.” *Morrissey v. City of Chicago*, 334 Ill. App. 3d 251, 258 (1st Dist. 2002). This rule is to be “strictly construed and sparingly exercised,” and “was not intended to open the floodgates to a vast number of appeals.” *Id.* at 257-58; *see also* *Rozsavolgyi*, 2017 IL 121048, ¶ 21.

Rule 308 is “not intended to be a mechanism for expedited review of an order that merely applies the law to the facts of a particular case. Nor does it permit [the reviewing court] to review the propriety of the order entered by the [trial] court.” *In re Estate of Luccio*, 2012 IL App (1st) 121153, ¶ 17. Instead, it permits certification of a question only when the question meets each of the following three requirements: (1) the question is a pure question of law that is not dependent on the underlying facts; (2) there are substantial grounds for a difference of opinion on the question; and (3) answering the question may materially advance the ultimate termination of the

litigation. *Rozsavolgyi*, 2017 IL 121048, ¶¶ 20-21; *In re Marriage of Main*, 2020 IL App (2d) 200131, ¶ 11. The question must also be addressed in the underlying order. Ill. S. Ct. R. 308(a).

ARGUMENT

Each of Midwest’s proposed questions fails all three prongs of the Rule 308 test: they are fact-dependent; there is no substantial ground for a difference of opinion as to the legal questions embedded in them; and answering the questions would not materially advance the ultimate termination of the litigation. Moreover, the questions are procedurally improper because they are either not addressed by the MTD Order or were not raised by Midwest in its motion to dismiss.

A. Midwest’s Proposed Questions Are Not Pure Questions of Law.

Rule 308 does not allow the certification of questions which are fact-dependent, as all of Midwest’s questions are. Under Rule 308, only pure questions of law may be certified for interlocutory appeal. *Rozsavolgyi*, 2017 IL 121048, ¶ 21; *see also Est. of Luccio*, 2012 IL App (1st) 121153, ¶ 32 (explaining that certified questions may not be dependent on “factual predicates”). Thus, if the “answer is dependent upon the underlying facts of a case, the certified question is improper.” *Rozsavolgyi*, 2017 IL 121048, ¶ 21. Additionally, if answering the “certified question as framed would necessarily bear on situations not before this court,” then review of the question would lead to an improper advisory opinion. *Id.* ¶ 26. In other words, a certified question may neither be so broad as to capture situations extraneous to the case, nor so narrow that it requires a case-specific factual application. Even though the Illinois Supreme Court and the First District have repeatedly reiterated the importance of this prong for a Rule 308 appeal, Midwest’s brief fails to acknowledge it at all.

Questions 1 and 2, which ask this Court to certify as-applied constitutional challenges based on the Due Process Clause and the First Amendment, are inherently fact-based. *See Kopf v. Kelly*, 2024 IL 127464, ¶ 22 (“an as-applied challenge requires a showing that the statute is

unconstitutional as it applies to the specific facts and circumstances of the challenging party”); *People v. Einoder*, 209 Ill. 2d 443, 455 (2004) (as-applied vagueness challenge requires “factual basis” for court to rule); *Vuagniaux v. Dep’t of Prof. Regul.*, 208 Ill.2d 173, 191 (2003) (as-applied First Amendment challenge to statute regulating commercial speech “necessarily requires a developed factual record”). As the First District has explained, “[a]s too often happens, a certified question is framed as a question of law, but the ultimate disposition depends on the resolution of a host of factual predicates,” which is impermissible. *Est. of Luccio*, 2012 IL App (1st) 121153, ¶ 32 (declining to apply a legal test “to the facts of [the] case” because it was “beyond the scope” of a Rule 308 appeal) (citations omitted). That is exactly the case with Midwest’s first two questions.

Remarkably, Midwest even states: “[MCC Section 2-25-090 and 815 ILCS 505/2BBBB(b)(1) & (4)] **are not vague at all** and simply do not encompass what Midwest is alleged to have said or not said.” Midwest Br. at 7 (emphasis added). In other words, Midwest admits that the dispute in Question 1 is factual. Question 2 is similarly improper because it concerns the application of law to Midwest’s commercial speech about easily modified Glock pistols. Accordingly, answering the questions necessarily involves an analysis of whether the speech at issue in this case is unfair or deceptive. *See Central Hudson Gas & Elec. Corp. v. Pub. Serv. Comm’n of New York*, 447 U.S. 557, 566 (1980) (a court “must determine at the outset whether the expression [at issue] is protected by the First Amendment”). Because Questions 1 and 2 depend on a “host of factual predicates,” they may not be certified under Rule 308.

Questions 3 and 4 ask whether Midwest’s representations about the “safety” of easily modified Glocks and its failures to make material disclosures about the convertibility of Glock pistols violate MCC § 2-25-090 and 815 ILCS 505/2DDDD(b)(1) & (4). These questions are inherently fact specific. Whether a misrepresentation made in the promotion of a product or the

failure to disclose certain information amounts to a violation of the Municipal Code of Chicago or the Illinois Consumer Fraud Act (“ICFA”) is a heavily fact-dependent inquiry. *See, e.g., People ex rel. Daley v. Datacom Sys. Corp.*, 146 Ill. 2d 1, 34-35 (1991) (“whether or not [defendant] . . . violated the Consumer Fraud Act or any other law is a factual issue which must be decided by the trier of fact”); *Siegel v. Levy Org. Dev. Co.*, 153 Ill. 2d 534, 544 (1992) (whether false representations of material fact were made to purchasers was question of fact precluding summary judgment under ICFA); *City of Chicago v. DoorDash, Inc.*, No. 21 C 5162, 2022 U.S. Dist. LEXIS 41635, at *8 (N.D. Ill. Mar. 9, 2022) (“whether reasonable consumers were deceived . . . is a question of fact” under MCC section 2-25-090). While Midwest ignores this black-letter law, it necessarily prevents the certifications of Questions 3 and 4 under Rule 308.

Question 4 also fails for another reason: answering it “would necessarily bear on situations not before this court.” *Rozsavolgyi*, 2017 IL 121048, ¶ 26. Question 4 asks: “Does public policy allow imposition of an obligation upon sellers of legal, non-defective products to inform customers of ways that they might illegally alter or use the products?” This is not part of the City’s case. The City is not alleging that Midwest engaged in unreasonable, unfair, and/or deceptive conduct because it did not tell consumers *how* to illegally modify Glock pistols. (In fact, to the contrary, the City is alleging it was a violation of the law that the Eagle Sports Defendants did just that: promoted the use of modified Glocks. Compl. ¶¶ 9, 80-83; MTD Order at 2, 17.) Instead, the City alleges that Midwest engaged in unreasonable, unfair, and/or deceptive conduct by, among other things, failing to disclose that Glock pistols are easily converted to highly dangerous and illegal machine guns, are frequently diverted into criminal channels and highly sought by criminals because of their easy modification, and pose unwarranted health and safety risks to Chicago consumers and their communities.

Thus, each of Midwest’s proposed questions fails at the initial step of the Rule 308 test.

B. Any Legal Issue Involved in Midwest’s Fact-Dependent Questions Is Well-Established under Binding Precedent.

None of Midwest’s questions should be certified because they are not “question[s] of law as to which there is substantial ground for difference of opinion.” Ill. S. Ct. R. 308(a). As explained above, all of Midwest’s questions require the application of law to facts and therefore are not permissible questions under Rule 308. But even as to the “law” part of the questions, Midwest does not and cannot argue any substantial ground for difference of opinion.

A substantial ground for difference of opinion exists if “the question of law has not been directly addressed by the appellate or [Illinois] supreme court,” *In re Marriage of Main*, 2020 IL App (2d) 200131, ¶ 11, or if “there is a conflict between appellate districts or with the Illinois Supreme Court,” *Rozsavolgyi*, 2017 IL 121048, ¶ 32. With respect to the legal portions of Midwest’s questions, Illinois courts have spoken unequivocally. And Midwest offers no substantive response, other than to state, in conclusory fashion, that substantial grounds for a difference of opinion “undoubtedly exist[] here.” Midwest Br. at 2.²

As to Question 1 (Vagueness), to the extent a legal question can be extricated from this fact-dependent inquiry, Illinois law is clear that laws such as MCC § 2-25-090 and ICFA are not unconstitutionally vague. *Scott v. Ass’n for Childbirth at Home, Int’l*, 88 Ill. 2d 279, 285, 289–90 (1981) (upholding Section 2 of ICFA from vagueness challenge, and noting that phrases like “unfair,” and “deceptive,” are not unduly vague); *People v. Khan*, 136 Ill. App. 3d 754, 757–58 (1st Dist. 1985) (no requirement that the legislature be overly prescriptive to give individuals

² Presumably by mistake, Midwest adds, “[t]he Court’s rulings on aiding and abetting liability and negligent entrustment vastly expand these legal doctrines beyond any recognized borders and Illinois precedent.” *Id.* The City raises neither aiding-and-abetting nor negligent entrustment in this case.

adequate notice that their conduct is prohibited); *cf. Sharkeys, Inc. v. City of Waukesha*, 265 F. Supp. 2d 984, 993 (E.D. Wis. 2003) (“The Seventh Circuit has upheld . . . ‘reasonableness’ standards against challenges based on vagueness.”); *Nat’l Shooting Sports Found., Inc. v. James*, 144 F.4th 98, 118 (2d Cir. 2025) (“reasonableness is a well-established legal standard that is employed in a wide range of statutes consistent with the requirements of the Due Process Clause.”).

As to the legal question embedded within Question 2 (First Amendment), Midwest’s argument fares just as poorly because “the [Illinois] Supreme Court has repeatedly recognized that the first amendment is not a bar to State regulation prohibiting false, misleading or deceptive commercial speech.” *People ex rel. Hartigan v. Maclean Hunter Pub. Corp.*, 119 Ill. App. 3d 1049, 1061 (1st. Dist. 1983); *see also Scott v. Ass’n for Childbirth*, 88 Ill. 2d at 287 (“Since [ICFA] prohibits only such speech as amounts to a fraudulent or deceptive practice, i.e., false or misleading advertising, it can affect only speech that is by definition outside the ambit of first amendment protection, and within the scope of permissible State regulation.”); *Zauderer v. Off. of Disciplinary Couns. of Supreme Ct. of Ohio*, 471 U.S. 626, 651 (1985) (“because disclosure requirements trench much more narrowly on an advertiser’s interests than do flat prohibitions on speech, ‘warning[s] or disclaimer[s] might be appropriately required . . . in order to dissipate the possibility of consumer confusion or deception’”) (citations omitted). Midwest relies on inapposite cases involving purely expressive speech and incitements to violence, *see Midwest Br.* at 6, that have nothing to do with this case.

With respect to Questions 3 and 4, if the necessary factual predicates were stripped away, then the questions would simply be asking whether misrepresentations about safety and material omissions are actionable under MCC § 2-25-090 and ICFA. The answer is undoubtedly yes. The Federal Trade Commission (FTC)—which this Court explained must be given consideration under

Illinois law, *see* MTD Order at 15—“considers certain categories of information presumptively material,” including “claims or omissions ... if they significantly involve ... safety.” *FTC Statement on Deception*, 103 F.T.C. 174, 182 (1984) (*appended to Cliffdale Assocs., Inc.*, 103 F.T.C. 110 (1984)); *see also* *FTC v. QT, Inc.*, 448 F. Supp. 2d 908, 965 (N.D. Ill. 2006) (“presumption of materiality” for claims that “significantly involve health [or] safety”); *In re Firestone Tire & Rubber Co.*, 81 F.T.C. 398, 1972 FTC LEXIS 64, at *98 (1972) (“the Commission has required scrupulous accuracy in advertising claims’ related to ‘the safety of a product’” and “frequently decided that the omission of product safety information is an unfair and deceptive practice”); *cf. In re Toyota Motor Corp. Unintended Acceleration Mktg.*, 754 F. Supp. 2d 1145, 1176–77 (C.D. Cal. 2010) (“[a]dvertisements that make representations about safety are actionable”). The Illinois Supreme Court has also held that representations and failures to disclose safety issues can be deceptive conduct under ICFA. *Connick v. Suzuki Motor Co.*, 174 Ill. 2d 482, 505 (1996) (upholding ICFA consumer-fraud claim based on concealment of material facts regarding a vehicle’s safety risk); *see also In re KIA Hyundai Vehicle Theft Litig.*, 2024 U.S. Dist. LEXIS 153410, at *30 (C.D. Cal. Aug. 15, 2024) (interpreting Illinois law and finding complaint stated claim for violation of ICFA where “claims rely on allegations that the [d]efendants failed to disclose a lack of anti-theft technology [in their vehicles], an act that can plausibly be cast as ‘immoral, unethical, oppressive, or unscrupulous’ in light of [the complaint’s] description of impacts of marketing and thefts on low-income communities”).

Therefore, even if each of Midwest’s proposed questions did not fail because they require the application of law to the facts, they must still fail because there is no substantial ground for a difference of opinion about the legal questions embedded within them.

C. An Interlocutory Appeal Would Not Materially Advance the Ultimate Termination of the Litigation, And Would Only Cause Further Delay.

Midwest has not made any showing that an interlocutory appeal of its certified questions would materially advance the ultimate termination of this litigation, nor can it. A party seeking review under Rule 308 must “address squarely and in meaningful detail the question [of] whether an immediate appeal sought under Rule 308 may advance the ultimate termination of a case.” *Voss v. Lincoln Mall Mgmt. Co.*, 166 Ill. App. 3d 442, 452 (1st Dist. 1988).³ This directive furthers Illinois’ “strong policy against piecemeal appeals” and the delay accompanying an interlocutory appeal. *Id.* at 451. Here, Midwest seeks nothing but delay and piecemeal appellate review, as evidenced by the fact that *not one* of its questions would materially advance the ultimate termination of this case.

First, Midwest’s questions ignore key bases for liability in the City’s Complaint. Therefore, an interlocutory appeal *couldn’t* materially advance the ultimate termination of this litigation because it would not resolve the actual issues in this case. Midwest only seeks to certify questions relating to its representations about safety and its material omissions regarding the dangerous convertibility of Glock pistols. But the unreasonableness and unfairness claims against Midwest (Counts I and II) also challenge its *sale* of easily modified Glock pistols. As alleged, Midwest, a top source of crime guns in Chicago, sells easily modified Glock pistols to Chicago consumers, with knowledge of the proliferation of and havoc wreaked by modified Glocks in Chicago. Compl. ¶ 139. Midwest *also* consistently and extensively promotes the safety of Glock pistols, without disclosing that Glock pistols are easily converted to highly dangerous and illegal machine guns,

³ Indeed, Midwest’s entire reasoning under this prong is that, “[a]n immediate resolution of the questions of law through interlocutory appeal not only ‘may’ ‘materially advance the ultimate termination of the litigation’; it likely ‘will’ dispose of the action against Midwest entirely.” Midwest Br. at 2 (citing Rule 308). This conclusory assertion falls far short of what is required.

are frequently diverted into criminal channels and highly sought by criminals because of their easy modification, and pose unwarranted health and safety risks to Chicago consumers and their communities. *Id.* ¶¶ 158, 176. So, *even if* interlocutory appeal were permitted *and* Midwest’s certified questions were all answered in its favor, Counts I (Unreasonable sale, manufacturing, and/or marketing of firearms) and II (Unfair practices) against Midwest—at minimum—would remain. And the dismissal of any single claim in a multi-claim case does not satisfy the “materially advance” standard as interpreted by Illinois courts. *Cf. Rozsavolgyi*, 2017 IL 121048, ¶ 33 (“materially advance” prong not met where answering the certified question could have prevented the plaintiff from seeking damages against the defendant but would not bar the plaintiff from seeking other forms of relief).

Further, the certified questions would have no impact on the City’s claims against the other Defendants, providing yet another basis to deny interlocutory review. For example, Midwest’s questions do not address the City’s allegations that the Eagles Sports Defendants were marketing modified Glocks to customers on their premises and on social media. *See* Compl. ¶¶ 80-83; MTD Order at 17. But Illinois courts recognize that a certified question would not materially advance the termination of the litigation if the case would nonetheless remain pending against other defendants. *See, e.g., Lakewood Urology LLC v. Baber*, 2023 IL App (1st) 220719-U, ¶ 50. And the Eagle Sports Defendants have not put forth any questions applicable to their conduct.

D. Midwest’s Motion Should Also be Denied Because it Attempts to Certify Questions That Are Not Found in the MTD Order and That it Failed to Raise in its Motion to Dismiss.

Midwest attempts to certify two questions for interlocutory review that were not addressed in the MTD Order. But the text of Rule 308 makes plain that a question may only be certified when it is addressed by the underlying order. Ill. S. Ct. R. 308(a) (“When the trial court, in making an interlocutory order not otherwise appealable, finds that *the order* involves a question of law”

(emphasis added)); *see also* Ill. S. Ct. R. 308(c) (“The application [to the appellate court] shall contain a statement of the facts necessary to an understanding *of the question of law determined by the order of the trial court . . .*” (emphasis added)). The issues raised in Questions 1 and 2 are found nowhere in the MTD Order; this is grounds alone to decline certification of these questions.

To start, Question 2 is easily dispensed with, as the First Amendment was neither mentioned by Midwest in its motion to dismiss, nor addressed anywhere in the MTD Order. Turning next to Question 1, which asks whether MCC § 2-25-090 and 815 ILCS 505/2DDDD(b)(1) & (4) are unconstitutionally vague as applied to Midwest based on an ordinary person’s failure to understand that misrepresentations about safety and failure to disclose material facts would violate the above provisions. This question was not addressed in the MTD Order, which only analyzed the Defendants’ vagueness challenge in terms of whether the term “reasonable” in 815 ILCS 505/2DDDD(b)(1) was sufficiently concrete under the Due Process Clause and whether ICFA required a scienter requirement. *See* MTD Order at 10-12. This is because those are the only grounds that *Defendant Glock, Inc.* brought in asserting a vagueness challenge; Midwest did not make any substantive argument as to vagueness. It simply asserted in conclusory fashion that ICFA “is so vague as to violate the Constitution’s due process protections,” Midwest MTD at 11, with no further explanation. Thus, Question 1 also does not satisfy the requirements of Rule 308, which must be “strictly construed and sparingly exercised.” *Morrissey*, 334 Ill. App. 3d at 258; *see also Rozsavolgyi*, 2017 IL 121048, ¶ 21 (“[R]ule [308] should be sparingly used.”).

That leaves Questions 3 and 4. The MTD Order arguably touches on the issues raised in these two questions. However, that is only because the Court made a determination as to the sufficiency of the City’s allegations under MCC § 2-25-090 and ICFA *even though* it emphasized

that the Defendants “did not address the allegations” raised in the City’s Complaint. MTD Order at 14-17. Midwest should not be rewarded for its failure to raise issues in its motion to dismiss by getting to appeal questions that it never raised, particularly as part of an interlocutory appeal that is both disfavored and reserved only for exceptional circumstances. As the Illinois Supreme Court has made clear, “[i]t is well settled that issues not raised in the trial court are deemed waived and may not be raised for the first time on appeal.” *Haudrich v. Howmedica, Inc.*, 169 Ill.2d 525, 536 (1996). “[A]llowing [a] defendant to change his theory of defense on appeal would ‘not only weaken the adversarial process and our system of appellate jurisdiction,’ but would likely prejudice the plaintiff” *Id.* (quoting *Daniels v. Anderson*, 162 Ill.2d 47, 59 (1994)); *see also Snap Advances, LLC v. Macomb Office Supply, Inc.*, 2019 IL App (1st) 180773-U, ¶ 33 (“Entertaining issues raised for the first time on appeal undermines efficiency, predictability, procedural fairness, and finality.”). Allowing Midwest to change its theory of defense through an interlocutory appeal would prejudice the City and undermine the efficiency of this case.

E. A Discovery Stay Is Not Warranted.

Even if the Court were to find one of Midwest’s proposed questions appropriate for certification, the City respectfully requests that this Court permit the parties to proceed with discovery. The default rule under Rule 308 is that “[t]he application for permission to appeal or the granting thereof shall not stay proceedings in the trial court unless the trial court or the Appellate Court or a judge thereof shall so order.” Ill. S. Ct. R. 308(f). This rule exists to “discourage an attempt to take an interlocutory appeal with a motive of delay.” Ill. S. Ct. R. 308, Comm. Comments (revised 1979).

It is difficult to imagine a clearer example of a party acting with a motive of delay. Midwest raises for the first time on appeal questions it forfeited in its motion to dismiss—and over a year after this action commenced. It does so in an unmistakable attempt to stall the case. This should

not be allowed. Especially here, where a pause in the proceedings allows the conduct at issue in this case to continue, and for the serious threat to the public health and safety posed by easily modified Glock pistols to grow larger. There is no reason to deviate from Rule 308's presumption against a stay here.

CONCLUSION

For the foregoing reasons, the City respectfully requests that Midwest's Motion for Certification of Issues for Interlocutory Appeal be denied in its entirety.

Dated: November 25, 2025

Respectfully submitted,

MARY B. RICHARDSON-LOWRY
Corporation Counsel
of the City of Chicago

By: /s/ Stephen J. Kane

EVERYTOWN LAW
Alla Lefkowitz*
Alison Barnes*
P.O. Box 14780
Washington, DC 20044
(203) 738-5121
alefkowitz@everytown.org
abarnes@everytown.org

Nina Sudarsan*
Carly Lagrotteria*
450 Lexington Ave.
P.O. Box 4184
New York, NY 10017
(646) 324-8222
nsudarsan@everytown.org
clagrotteria@everytown.org

CITY OF CHICAGO DEPT. OF LAW
Stephen J. Kane
Rebecca A. Hirsch
Chelsey B. Metcalf
Laura Geary
121 North LaSalle Street, Room 600
Chicago, IL 60602
(312) 744-6934
stephen.kane@cityofchicago.org
rebecca.hirsch2@cityofchicago.org
chelsey.metcalf@cityofchicago.org
laura.geary@cityofchicago.org

MOTLEY RICE LLC
Mimi Liu*
Elizabeth Paige Boggs
Brendan Austin*
401 9th Street NW Suite 630
Washington, DC 20004
mliu@motleyrice.com

pboggs@motleyrice.com
baustin@motleyrice.com

Nicholas Williams*
28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
(842) 216-9133
nwilliams@motleyrice.com

**Admitted pro hac vice*

**ATTORNEYS FOR PLAINTIFF
CITY OF CHICAGO**

CERTIFICATE OF SERVICE

I hereby certify that on November 25, 2025, I e-filed the foregoing document, which will cause the document to be served on all counsel of record.

/s/ Paige Boggs
Paige Boggs