

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

CITY OF CHICAGO, an Illinois municipal corporation,

Plaintiffs

v.

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,

Defendant

Case No. 2024CH06875

Calendar 03

Hon. Judge Allen P. Walker

ORDER

This Cause is coming to be heard on three motions from Defendants Glock, Inc. and Glock Ges.m.b.H. (the “Glock Defendants”), Defendant Midwest Sporting Goods Co. (the “Midwest Defendant”), and Eagle Gun Club LLC, Range Plus, LLC, and 5900 LLC (the “Eagle Gun Club Defendants”). This Court denies the Defendants’ motions for interlocutory appeal under Illinois Supreme Court Rule 308(a).

Illinois Supreme Court Rule 308(a) provides:

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.

Ill. S. Ct. R. 308(a) (eff. Oct. 1, 2019).

Rule 308(a) allows 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 v. City of Aurora*, 2017 IL 121048 ¶ 20.

I. The Glock Defendants

The Glock have requested that the Court grant their motion for interlocutory appeal on the following questions:

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 machine guns through the installation of a machine gun 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 machine guns 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 machine guns 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 machine guns 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 machine guns 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?

The Court finds that Questions 1-2, 4-7, 9, and 10 require factual determinations and are not questions of law. Under Rule 308(a), only pure questions of law may be certified for interlocutory appeal. *Rozsavolgyi*, 2017 IL 121048, ¶ 21. The rule was not intended to allow for an interlocutory appeal of merely an application of the law to the facts of a specific case. *Walker v. Carnival Cruise Lines, Inc.*, 383 Ill. App. 3d 129, 133(1st Dist. 2008). The Court finds that Question 3, the resolution of which does not advance the litigation, is improper under 308(a). The Court finds that Question 8 as framed would necessarily bear on situations not before this court and would therefore result in an advisory opinion.

Therefore, the Court denies Glock Defendants’ motion.

II. The Midwest Defendants

The Defendant Midwest requested that the Court grant its motion for interlocutory appeal on the following questions:

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?
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?

3. Do MCC Section 2-25-090 and 815 ILCS 505/2BBBB(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?
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?

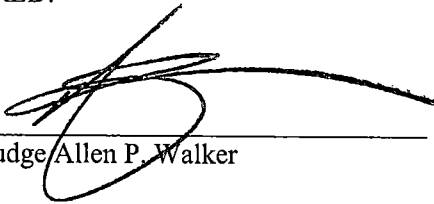
The Court finds that the four questions presented by Defendant’s Midwest are fact-specific and require factual determinations, not questions of law. They are improper under *Rozsavolgyi*. See also *Dowd & Dowd, Ltd. v. Gleason*, 181 Ill. 2d 460, 469 (1998); *Morrissey v. City of Chicago*, 334 Ill. App. 3d 251, 258 (1st Dist. 2002).

Therefore, the Court denies the Midwest Defendant’s motion. Further, because the Eagle Gun Club Defendants’ motion sought leave to adopt the Rule 308 motions filed by the Midwest and Glock Defendants, without presenting any new arguments or questions, the Court denies the Eagle Gun Club Defendants’ motion.

Dated: _____

ENTERED Associate Judge Allen Price Walker-2071 JAN 12 2025 MARIYANA T. SPYROPOULOS CLERK OF THE CIRCUIT COURT OF COOK COUNTY, IL

ENTERED:



Hon. Judge Allen P. Walker