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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 THE GLOCK DEFENDANTS’
MOTION FOR RECONSIDERATION AND TO STAY DISCOVERY**

To get another bite at the apple, Defendants Glock, Inc. and Glock Ges.m.b.H. (together “Glock”) ask this Court to reconsider its January 12, 2026, Order denying their motion for certification of issues for interlocutory appeal pursuant to Illinois Supreme Court Rule 308 (the “Rule 308 Order”), and for the Court to stay discovery pending resolution of the motion to reconsider and interlocutory appeal. In support, Glock does not point this Court to an intervening, applicable case, a subsequent clarification of controlling law, or new evidence—as is required of a motion for reconsideration. Instead, Glock bases its entire motion on a one-paragraph, supervisory order issued by the Illinois Supreme Court in *Roberts v. Smith & Wesson Brands, Inc.*, No. 132414, directing the Second District to take a Rule 308 interlocutory appeal. Because the Court got its Rule 308 Order right, and because Glock’s motion provides no basis for the Court to overturn the order, the Court should deny the motion.

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LEGAL STANDARD

“[A] motion to reconsider has a limited purpose, and it is to bring to the trial court’s attention (1) newly discovered evidence, (2) changes in the law, or (3) errors in the trial court’s prior application of existing law.” *Horlacher v. Cohen*, 2017 IL App (1st) 162712, ¶ 82 (citation omitted). The moving party bears “the burden of establishing sufficient grounds to prevail on a motion to reconsider.” *Kalmin v. Varan*, 2021 IL App (1st) 200755, ¶ 35 (citation omitted). “A ruling on a motion to reconsider is within the sound discretion of the trial court and will not be disturbed absent an abuse of that discretion.” *Aalbers v. LaSalle Hotel Properties*, 2022 IL App (1st) 210494, ¶ 39 (citation omitted).

ARGUMENT

Glock’s motion for reconsideration and a stay is meritless and should be denied. *First*, Glock argues that the Court should reconsider its Rule 308 Order and certify questions for interlocutory review because the Illinois Supreme Court entered a one-paragraph supervisory order in a different case. But a supervisory order is neither precedent nor binding authority and therefore cannot satisfy the strict reconsideration test. *Second*, even if a supervisory order in another case were a sufficient reason to reconsider an order, Glock entirely fails to address how the *Roberts* order changes the Rule 308 analysis of the facts of this case. *Third*, nothing in Glock’s motion justifies departing from Rule 308’s default position disfavoring discovery stays.

I. Glock’s Motion Fails Because a Supervisory Order is Not a Change in Law or Clarification of Existing Law that Could Support a Reconsideration Motion.

Glock asks this Court to reconsider its well-reasoned Rule 308 decision because the Illinois Supreme Court has since entered a one-paragraph supervisory order directing the Second District to allow an application for leave to appeal in *Roberts v. Smith & Wesson Brands, Inc.*, No. 132414. But this fact alone cannot clear the high bar to justify reconsideration.

A motion to reconsider must bring to the court’s attention newly discovered evidence, a change in the law, or errors in the court’s previous application of existing law. *Liceaga v. Baez*, 2019 IL App (1st) 181170, ¶ 25. Glock relies on the second and third prongs, arguing that the *Roberts* supervisory order marks a change in law or indicates that this Court’s 308 Order was in error. Glock Br. at 3, 6. But a change in the law worthy of reconsideration should have the power to impact the underlying decision in favor of the party moving for reconsideration. *See Chelkova v. Southland Corp.*, 331 Ill. App. 3d 716, 730 (1st Dist. 2002) (affirming trial court’s denial of motion for reconsideration where movant cited non-controlling authority but “cite[d] no authority indicating a change in the law that impacted the trial court’s . . . ruling”). Glock points to no authority, nor is the City aware of any, in which a court reconsidered a decision based on a subsequent supervisory order in another case. To the contrary, one district of the appellate court concluded that it is “aware of no case law that requires this court to interpret a supervisory order issued in a different case as the equivalent of an opinion and therefore dispositive of how this court should address a separate appeal” and explained that “binding precedent reveals the opposite.” *People v. Burke*, 2024 IL App (5th) 231167, ¶ 40.

This is because Supreme Court supervisory orders are not binding precedent or even a ruling on the merits—and thus, contrary to Glock’s assertion, are not “intervening authority.” Glock Br. at 3. *See Cinkus v. Vill. of Stickney Mun. Officers Electoral Bd.*, 228 Ill. 2d 200, 221 (2008) (“We have repeatedly noted that supreme court supervisory orders are nonprecedential.”); *In re Alfred H.H.*, 233 Ill. 2d 345, 352 n.2 (2009) (“citation to supervisory orders is inappropriate” because they are “nonprecedential” (citation omitted)); *People v. Jackson*, 154 Ill. App. 3d 320, 324 (1st Dist. 1987) (supervisory orders “recite no facts, and provide no rationale upon which the principles of *stare decisis* may attach”).

In *Roberts*, a set of cases stemming from the Highland Park mass shooting, the trial court certified certain of defendant Smith & Wesson's questions for interlocutory review and declined to certify others. *Roberts v. Smith & Wesson Brands, Inc.*, No. 22 LA 00000201 (Ill. Cir. Ct. June 5, 2025) (Ex. A). The Second District then denied Smith & Wesson's application for leave to appeal under Rule 308 in a one-line order. *Roberts v. Smith & Wesson Brands, Inc.*, No. 2-25-0274 (2d Dist. Sept. 22, 2025) (Ex. B). Smith and Wesson subsequently filed a petition with the Illinois Supreme Court asking the Supreme Court to directly accept its appeal or to exercise its supervisory authority and order the Second District to accept the appeal.

On January 28, 2026, the Supreme Court denied Smith & Wesson's petition for leave to appeal but directed the Second District to vacate its order and allow the application for leave to appeal. The supervisory order did not include any reasoning for its decision. In fact, the entire order is two sentences:

In the exercise of this Court's supervisory authority, the Appellate Court, Second District, is directed to vacate its order in Roberts v. Smith & Wesson Brands, Inc., case No. 2-25-0274 (09/22/25), denying appellants' application for leave to appeal. The appellate court is directed to allow the application for leave to appeal.

Roberts v. Smith & Wesson Brands, Inc., No. 132414 (Jan. 28, 2026) (Ex. C). The Second District has not yet ruled on the appeal.

The Supreme Court did not conduct any analysis of whether any of the questions presented were proper for certification under Rule 308; it merely directed the Second District to allow the appeal. *Contra* Glock Br. at 6. The supervisory order does not mandate a specific outcome or provide a new legal rule. *See People v. Blancas*, 2019 IL App (1st) 171127, ¶ 12 (noting that Supreme Court supervisory orders "are not precedent" and do not "express the [Supreme Court's] disapproval" of the underlying analysis). It certainly does not suggest that the party seeking appellate review should prevail on the merits. *Cf. People v. Davis*, 403 Ill. App. 3d 461, 467 (1st

Dist. 2010) (noting that “the granting of leave to appeal, however, does not necessarily call into question a decision, especially one well-reasoned”). Indeed, the Supreme Court routinely directs the appellate court to allow appeals under Rule 308 but then declines to review the merits after the appellate court upholds the circuit court’s ruling. *See, e.g., State ex rel. Levenstein v. Salafsky*, 196 Ill. 2d 564, 564 (2001) (directing Second District to grant Rule 308 application for leave to appeal), *remanded to People ex rel. Levenstein v. Salafsky*, 338 Ill. App. 3d 936, 937 (2d. Dist. 2003) (on remand, agreeing with circuit court on answers to certified questions), *appeal denied*, 205 Ill. 2d 647 (2003); *Holtz v. Crown*, 357 Ill. App. 3d 994, 997, 1001 (1st Dist. 2005) (allowing Rule 308 appeal in accordance with Supreme Court supervisory order and holding that trial court had jurisdiction to issue ruling), *appeal denied*, 216 Ill. 2d 686 (2005). Further, there is a possibility that the Second District may not even reach the merits of the certified questions. Because Rule 308 imposes jurisdictional limits, the Second District retains the discretion to determine on appeal that any of the questions presented are not appropriate for Rule 308 certification. *See Wisnasky v. CSX Transportation, Inc.*, 2020 IL App (5th) 170418, ¶¶ 19, 36-37 (after Supreme Court directed appellate court to allow interlocutory appeal under Rule 308, declining to answer one part of certified question because it included factual issues).

The *Roberts* supervisory order said nothing about the circuit court’s Rule 308 decision or the merits of the proposed questions for interlocutory review in that case; it thus cannot be understood to say anything about the appropriateness of Glock’s proposed questions for interlocutory review here. *Cf. Wood Dale Fire Prot. Dist. v. Ill. Lab. Rels. Bd., State Panel*, 395 Ill. App. 3d 523, 534 (2d Dist. 2009) (assigning “no significance” to supervisory order in a different case that did not “expound on the supreme court’s reasoning for vacating the appellate court order”

and directing the appellate court to consider matter on the merits). Thus, Glock is wrong that the *Roberts* supervisory order has any bearing on this case.

II. Glock Fails to Establish that the Rule 308 Factors are Met Here

Even if a supervisory order offered appropriate grounds for reconsideration, this Court's Rule 308 Order was correctly decided, and Glock's challenge provides no basis to revisit the decision. To meet the Rule 308 test for certification, each question must be a pure question of law for which there are substantial grounds for disagreement and where answering the question may materially advance the ultimate termination of the litigation. *Rozsavolgyi v. City of Aurora*, 2017 IL 121048, ¶¶ 21, 31. Glock fails to mention, let alone grapple with, this analysis and incorrectly posits that if the Rule 308 factors are met in one case, they must be met in another. Glock's motion also fails to identify which of its original ten questions it is asking this Court to reconsider and certify; the City presumes that it is the six questions listed on pages 4-5 of Glock's brief.¹

As an initial matter, certifying Glock's questions would not materially advance the ultimate termination of this litigation because neither Midwest Sporting Goods nor the Eagle Sports Defendants have moved for reconsideration of the Rule 308 Order, and the case against them will continue.² A certified question does not materially advance the termination of the litigation if the case would remain pending against other defendants. *See, e.g., Lakewood Urology LLC v. Baber*, 2023 IL App (1st) 220719-U, ¶ 50 (declining to certify question applicable to one defendant, where

¹ Glock's list of questions from the *Roberts* case is misleading; Question 5 was rejected by the trial court, Ex. A, at 2-3, but Smith & Wesson nevertheless included multiple questions in its application to the Second District that the trial court declined to certify, Ex. 1, Glock Mot., at 10. In its supervisory order, the Illinois Supreme Court said nothing about the issues the Second District should consider, nor did it disturb the trial court's decision to certify only certain questions for interlocutory appeal.

² Nor would they have any grounds to do so, since there is no overlap between the questions in the *Roberts* case and the questions posed by the retailer defendants in this case.

case involved four other defendants). This rule furthers Illinois’s “strong policy against piecemeal appeals” and the delay accompanying an interlocutory appeal. *Voss v. Lincoln Mall Mgmt. Co.*, 166 Ill. App. 3d 442, 451 (1st Dist. 1988).

Additionally, since Glock Ges.m.b.H. is a foreign manufacturer that indisputably does not fall within the scope of the Protection of Lawful Commerce in Arms Act (“PLCAA”), 15 U.S.C. §§ 7901-7903, *see* Glock Br. at 11, neither of Glock’s PLCAA questions (Questions 1 and 2) may terminate the litigation against it. Therefore, certifying Glock’s PLCAA questions could not even materially advance the termination of the litigation against one of the Glock defendants.

More fundamentally, this Court rightly determined that eight of Glock’s original questions (including five of the questions identified in Glock’s brief) require factual determinations and are not questions of law. Rule 308 Order at 3. The only argument Glock puts forward is that some of its proposed questions are similar to some of the questions in the *Roberts* case, which is on appeal. Glock Br. at 3-6. This is wholly inadequate and far too speculative (of what might transpire in a different case) to meet the high burden to justify reconsideration. Further, Glock’s comparison doesn’t advance its position; on their face, it is evident that Glock’s questions cannot be answered without considering facts specific to this case and that they explicitly depend on the resolution of factual predicates. For example, Question 5 asks, “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 the harm resulting from the conversion of such pistols to machineguns by third parties who then use them to commit crimes?” *Id.* at 5. Question 9 asks, “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?” *Id.* The factual predicates are readily apparent on the face of these questions, and the Court is under no obligation to rewrite them to extricate any legal questions. And factual questions surrounding the ease of MCD installation and the conversion of semiautomatic handguns into illegal machine guns are simply not present in the *Roberts* case, rendering inapposite Glock’s attempt to analogize the two cases.

Perhaps recognizing these deficiencies, Glock alternatively asks this Court to drop Glock’s questions, certify Smith & Wesson’s questions instead, and simply replace references to that party with Glock. Glock Br. at 6. This makes little sense given that the two cases involve distinct legal theories and claims. At minimum, this proposal is procedurally improper and should be rejected.

Finally, with regard to the one remaining question—Question 8 (pertaining to the dormant Commerce Clause)—this Court correctly found that “Question 8 as framed would necessarily bear on situations not before this court and would therefore result in an advisory opinion.” Rule 308 Order at 3. Thus, whether or not a similar question might be appropriate for certification in another case has no bearing here, since Question 8 simply does not apply to the circumstances of this case. Glock makes no argument as to why the Court’s analysis was wrong in this regard.

III. Discovery Should Not Be Stayed.

Even if the motion for reconsideration is granted, Glock’s request for a stay should be denied. Contrary to Glock’s implication otherwise, the default rule 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) (emphasis added).³ There is no reason to deviate from the default rule here. Indeed, a stay makes even less

³ To the extent Glock relies on Rule 201(c)(1) and case law staying discovery pending disposition of a motion to dismiss, *see* Glock Br. at 6-8, those authorities are not applicable. Rule 308(f)

sense here because we are one step removed from a Rule 308 motion—this is a motion to reconsider the denial of a Rule 308 motion. On top of that, two out of the four defendants have not filed for reconsideration of the Rule 308 Order, so discovery will proceed against them.

The default no-stay rule should be followed as to Glock precisely for the reason the 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). Glock’s motion for a stay is based on layers of speculation about how it is “probable” that the First Department will allow an appeal in this case based on a one-paragraph supervisory order in a different case that has yet to be considered. Glock Br. at 6-8.⁴ And Glock’s assertion that a stay is warranted because an interlocutory appeal may dispose of the case against it is mistaken. Under Rule 308, all appeals brought pursuant to the rule necessarily involve dispositive questions of law that “may materially advance the ultimate termination of the litigation,” like immunity. Ill. Sup. Ct. R. 308(a). Yet, despite that requirement, the presumption is that discovery proceeds pending interlocutory review. This case is no different.

Further, the Court has already determined that the City’s action can proceed consistent with PLCAA and nothing in the federal statute provides that discovery should be stayed. Indeed, the only case Glock cites addressing a request for a stay pending appellate review where PLCAA was at issue rejected the argument that PLCAA protection should be treated like absolute or qualified immunity. *See City of New York v. Beretta U.S.A. Corp.*, 401 F. Supp. 2d 244, 297 (E.D.N.Y. 2005) (stays in the government-immunity context are “inapposit[e]” as to private parties because

provides the applicable standard for a stay here, and Glock has failed to demonstrate that one is appropriate under that Rule.

⁴ The trial court in the *Roberts* case denied the defendants’ request to stay discovery pending appellate review in that case. Order ¶ 1, *Roberts v. Smith & Wesson Brands, Inc.*, Case No. 2022 LA 00000487 (Mar. 19, 2026) (Ex. D).

they “consider whether absolute or qualified immunity for *government officials* should be resolved in advance of trial”), *aff’d in part and rev’d in part on other grounds*, 524 F.3d 384 (2d Cir. 2008).⁵ The other PLCAA cases cited by Glock, *see* Glock Br. at 9-10, lend it no support, as none of them addressed either discovery or a stay. Moreover, as Glock admits, PLCAA does not apply to Glock Ges.m.b.H. *See* Glock Br. at 11. Therefore, the Austrian entity has no claim to the immunity on which Glock, Inc. principally bases its request for a stay; thus, there is simply no reason to stay discovery against Glock Ges.m.b.H.

Allowing discovery to proceed will avoid unnecessarily prejudicing the City. Discovery is underway after almost a year of being stayed. The City is finally making incremental progress to engage Glock and the other defendants in meet-and-confers and to obtain their compliance with the City’s discovery requests. Halting discovery at this juncture would disrupt the progress the City has made and require retreading over the same ground later.

And further delay is not an abstract harm. This civil enforcement action addresses a serious public safety issue. Glock pistols that are quickly and easily modified into machine guns are being used in homicides, aggravated assaults, kidnappings, and robberies all over Chicago. Compl. ¶ 2. Over 1,300 modified Glocks were recovered in Chicago from 2021 to 2024. *Id.* Thus, there is a

⁵ Glock relies on other cases involving government immunity, none of which applies outside of that unique context. *See Pearson v. Callahan*, 555 U.S. 223 (2009) (qualified immunity of police officer); *Saucier v. Katz*, 533 U.S. 194 (2001) (same); *Phoenix Consulting, Inc. v. Republic of Angola*, 216 F.3d 36 (D.C. Cir. 2000) (sovereign immunity under Foreign Sovereign Immunity Act). Courts have consistently rejected the application of these doctrines to private parties. *See, e.g., Chicago & N.W. Transp. Co. v. Ulery*, 787 F.2d 1239, 1240 (8th Cir. 1986) (holding that rationale underlying the immediate appealability of the denial of qualified immunity “has no application in the instant case, where the defendants ... are not public officials but private parties”). And *James v. Geneva Nursing Rehabilitation Center, LLC*, dealt with healthcare workers who were granted immunity while “rendering assistance to the State” during the COVID-19 outbreak. 2024 IL 130042, ¶ 6.

significant, ongoing public interest in advancing this case—which has already been pending for nearly two years—that far outweighs the burden on Glock to engage in discovery.

CONCLUSION

For the foregoing reasons, the City respectfully requests that the Court deny Glock’s motion for reconsideration of the Rule 308 Order and to stay discovery.

Dated: April 2, 2026

Respectfully submitted,

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Corporation Counsel
of the City of Chicago

By: /s/ Elizabeth Paige Boggs

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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2026, I e-filed the foregoing document, which will cause the document to be served on all counsel of record.

/s/ Elizabeth Paige Boggs
Elizabeth Paige Boggs

Hearing Date: No hearing scheduled
Location: <<CourtRoomNumber>>
Judge: Calendar, 3

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EXHIBIT A

FILED DATE: 4/2/2026 4:21 PM 2024CH06875

Erin Cartwright Weinstein
Clerk of the Court
Lake County, Illinois

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS

KEELY ROBERTS, individually and as parent)
and next friend of C.R. and L.R., and JASON)
ROBERTS, individually and as parent and next)
friend of C.R. and L.R.,)

Case No. 22 LA 00000487

Plaintiffs,)

Consolidated with Case Nos.
22 LA 00000488, 22 LA 00000489,
22 LA 00000490, 22 LA 00000491,
22 LA 00000492, 22 LA 00000493,
22 LA 00000494, 22 LA 00000495,
22 LA 00000496, 22 LA 00000497,
22 LA 00000532, 24 LA 00000201,
24 LA 00000203, 24 LA 00000206,
24 LA 00000466, 24 LA 00000471,
24 LA 00000474, 24 LA 00000475,
24 LA 00000476, 24 LA 00000477,
24 LA 00000478, 24 LA 00000479,
24 LA 00000480, 24 LA 00000481

v.)

SMITH & WESSON BRANDS, INC., et al.,)

Defendants.)

And)

CYBEAR INTERACTIVE, LLC, et al.,)

Respondents in Discovery)

**ORDER ON SMITH & WESSON BRANDS, INC.’S MOTION FOR CERTIFICATION
OF ISSUES FOR INTERLOCUTORY APPEAL**

This matter comes before the Court on Defendant’s, Smith & Wesson Brands, Inc.,
Motion for Certification of Issues for Interlocutory Appeal. Having heard arguments on this
Motion, considered the statutory authority and case law, and being fully advised in the premises,
the Court now FINDS AS FOLLOWS:

Defendants Smith & Wesson brought Motions to Dismiss Plaintiffs’ Complaints pursuant
to 735 ILCS 5/2-615 and 2-619. On April 1, 2025, the Court entered its Order granting Smith &
Wesson’s Motion with respect to Plaintiffs’ Counts alleging violations of the Illinois Consumer
Fraud and Deceptive Practices Act-Deceptive and Unlawful Acts and alleging Negligent
Entrustment. The Court’s Order denied Smith & Wesson’s motions with respect to all other
Counts. Now, Smith & Wesson brings a Motion for Certification of Issues for Interlocutory

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Appeal. It alleges the following questions of law are appropriate for interlocutory appeal under Supreme Court Rule 308(a):

PLCAA Immunity

- 1) Did Plaintiffs plead a “qualified civil liability action” that is barred by the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §7901, *et. seq.* (“PLCAA”)?
- 2) Does the PLCAA bar Plaintiffs’ common law claims?
- 3) Can alleged violations of either the Illinois Consumer Fraud and Deceptive Trade Practices Act (“CFA”), 815 ILCS 505/2 or the Illinois Deceptive Trade Practices Act (“DTPA”), 815 ILCS 510/2 serve as a predicate statute that could deprive Smith & Wesson of PLCAA immunity?
- 4) Did Plaintiffs plead facts that Smith & Wesson “knowingly” violated a predicate statute based on the allegation that Smith & Wesson “should have known” its advertisements “support, recommend, or encourage individuals to engage in unlawful paramilitary or private militia activity in Illinois”?
- 5) Did Plaintiffs plead facts that Smith & Wesson’s alleged knowing violation of a predicate statute under the PLCAA proximately caused Plaintiffs’ injury?

Firearms Industry Responsibility Act

- 1) Does the PLCAA preempt the Firearms Industry Responsibility Act (“FIRA”), 815 ILCS 5/2DDDD?
- 2) If not preempted, is FIRA unconstitutional and does its application to Smith & Wesson’s advertisements violate Smith & Wesson’s First Amendment and Due Process rights?
- 3) Could Smith & Wesson have “knowingly” violated FIRA Section (b)(2) and/or (b)(4), which were not enacted until more than a year after the shooting incident that forms the basis of Plaintiffs’ Complaints?
- 4) If Smith & Wesson could have knowingly violated FIRA before its enactment, could that knowing violation have proximately caused injuries sustained by Plaintiffs before FIRA was enacted?

Consumer Fraud Act (Unfairness)-Standing

Do Plaintiffs have standing to bring an unfairness claim under Section 10a of the CFA where Plaintiffs do not allege either that they are purchasers or consumers of the Defendant’s products or that the Defendant intended for the Plaintiffs to receive or rely upon the alleged unfair advertisements?

Causation

- 1) Do Plaintiffs' allegations of intervening causal acts, including intentional, volitional, and criminal conduct, by other parties preclude a finding that Smith & Wesson proximately caused Plaintiffs' injuries and damages as a matter of law?
- 2) Did Plaintiffs plead facts that "the shooter saw one or more of Smith& Wesson's advertisements;" the advertisements "motivated or inspired" the shooter to commit his alleged crimes;" and that Smith & Wesson's advertising "created a condition conducive to a foreseeable intervening criminal act?"

Duty

Did Plaintiffs plead facts demonstrating that Smith & Wesson owed a cognizable duty to Plaintiffs, necessary to plead negligence-based claims, because advertisements portrayed in their Complaints created a foreseeable risk of injury, and the magnitude and consequence of placing a burden on Smith & Wesson to guard against criminal misuse of firearms is "minute?"

First Amendment

Was the correct constitutional analysis applied to Smith & Wesson's First Amendment defense?

ANALYSIS

Rule 308 permits a trial court to certify a question of law to the appellate court: "When the trial court, in making an interlocutory order not otherwise appealable, finds that the order [(1)] involves a question of law as to which [(2)] there is substantial ground for difference of opinion and [(3)] 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." Ill. S. Ct. R. 308(a).

Where resolution of a certified question "will depend on the resolution of a host of factual predicates," a reviewing court should typically decline to answer the question. *Combs v. Schmidt*, 2015 IL App (2d) 131053, ¶ 6; *Spears v. Ass'n of Illinois Electric Cooperatives*, 2013 IL App (4th) 120289, ¶ 15. In answering a certified question, the appellate court's role is "to answer the specific question and return the parties to the trial court without analyzing the propriety of the underlying order." *Combs v. Schmidt*, 2015 IL App (2d) 131053, ¶ 6; *Abrams v. Oak Lawn-Hometown Middle School*, 2014 IL App (1st) 132987, ¶ 5. Rule 308 "was not intended to be a mechanism for expedited review of an order that merely applies the law to the

facts of a particular case,” and it does not “permit us to review the propriety of the order entered by the lower court.” *Id.*; *In re Estate of Luccio*, 2012 IL App (1st) 121153, ¶ 17.

The Court finds that the following questions are not appropriate for Rule 308(a) review: PLCAA Immunity questions 1, 4, 5; Firearms Industry Responsibility Act question 4; Consumer Fraud Act (Unfairness)-Standing question; Causation questions 1, 2; Duty question; and First Amendment question. The Court agrees with Plaintiffs’ analysis of these questions finding that they are not pure questions of law and their answers are dependent on the underlying facts of the case, thus making the questions improper. *See Rozsavolgyi v. City of Aurora*, 2017 IL 121048, ¶20. The PLCAA Immunity questions 4, and 5 seek answers that are dependent on facts that the Plaintiffs pled in their causes of action. In order to answer whether a “knowing” violation of a predicate statute was committed, the Court must resolve factual disputes and apply those facts to the law. The Causation and Duty questions also rely on the application of facts to the law by asking whether allegations of fact in Plaintiffs’ Complaints adequately alleged the proper legal components of duty and causation. Further, the Consumer Fraud Act-Standing question also requires facts of this particular case to be applied to law in regard to whether Plaintiffs adequately pled the necessary requirements of an Unfairness claim under the CFA. The First Amendment question specifically asks whether the court correctly applied the facts regarding the nature of the advertising and marketing of Smith & Wesson to First Amendment law. None of these questions are pure questions of law that are appropriate for certification under Rule 308. Further, PLCAA Immunity question 1 asks whether Plaintiffs pled a “qualified civil liability” action that is barred under the PLCAA. This question was not in dispute by any of the parties. The Court’s Order was clear that the Plaintiffs’ Complaints met the definition of a “qualified civil liability” action under the PLCAA. However, the issues to be resolved were whether the predicate statute exception under the PLCAA applied to deny Defendants’ immunity under the PLCAA. Thus, there is no substantial ground for difference of opinion concerning this question.

The Court does find the following questions appropriate for certification: PLCAA Immunity questions 2, 3; and Firearms Industry Responsibility Act questions 1, 2, and 3. However, the Court has revised some of the proposed questions to express true questions of law that are material to advance the litigation. Below are the revised questions:

Firearms Industry Responsibility Act

- 1) Does the Firearms Industry Responsibility Act (“FIRA”), 815 ILCS 505/2DDDD, qualify as a predicate statute for exemption under the PLCAA, 15 U.S.C. §7903(5)(A)(iii).
- 2) Is the FIRA preempted by the PLCAA?
- 3) If not preempted, is the application of FIRA to Smith & Wesson’s sales and marketing mediums consistent with the U.S. Constitution, or does it infringe upon the First and Second Amendments and the Dormant Commerce Clause?
- 4) If the FIRA is “declarative of existing law” but applies to “actions commenced or pending on or after August 14, 2023”, can a violation of the FIRA’s provisions be “knowingly” committed before the FIRA was enacted?

The PLCAA Immunity questions involve questions of law as each of them asks the Appellate Court to interpret the meaning of PLCAA’s predicate statute exception and whether it applies to common law claims and CFA/DTPA claims. Neither question is dependent on resolving or applying particular facts of this case to the law. Likewise, the FIRA questions 1, 2, and 3 ask the Appellate Court to resolve questions of law as to whether the FIRA is an applicable predicate statute, whether the FIRA is preempted by the PLCAA, whether the FIRA is constitutional, and whether violations of the FIRA could occur before its enactment.

Plaintiffs attempt to argue the PLCAA Immunity questions and FIRA questions do not have substantial grounds for differences of opinion. However, the Court disagrees. “The substantial grounds for difference of opinion prong in Rule 308 has been satisfied in instances where the question of law had not been directly addressed by the appellate or supreme court. . . .” *Rozsavolgyi v. City of Aurora*, 2017 IL 121048, ¶ 32. Here, these issues have not been addressed by either court. Plaintiff implicitly admits this in stating that none of the cases cited by Smith & Wesson supports or addresses the questions. This Court’s order cited support for its opinion from other jurisdictions in part due to these questions of law not being directly addressed by the Illinois appellate or supreme court. Thus, Plaintiffs’ argument has no merit.

Additionally, the above questions the Court agrees to certify would materially advance the litigation. Determining whether the PLCAA predicate statute exception applies to Plaintiffs’ claims would be definitive of whether Plaintiffs’ causes of action are allowed to move forward at all. Whether the FIRA is preempted or constitutional affects whether the PLCAA predicate

statute exception applies and also would make a material difference in whether the litigation of these matters move forward. In contrast, the questions for which the Court denies certification mainly concern whether the causes of action have been adequately pled. In which case, the Court determined the well-pled allegations were sufficient. The litigation can still materially advance and the questions presented by Smith & Wesson as to whether Plaintiffs have the evidence and proof needed for the duty, causation, and “knowing” elements of their claims can be answered at another stage of the litigation.

Accordingly, for the reasons stated above, the Court certifies for interlocutory appeal the following questions:

Does the PLCAA bar Plaintiffs’ common law claims?

Can alleged violations of either the Illinois Consumer Fraud and Deceptive Trade Practices Act (“CFA”), 815 ILCS 505/2 or the Illinois Deceptive Trade Practices Act (“DTPA”), 815 ILCS 510/2 serve as a predicate statute that could deprive Smith & Wesson of PLCAA immunity?

Does the Firearms Industry Responsibility Act (“FIRA”), 815 ILCS 505/2DDDD, qualify as a predicate statute for exemption under the PLCAA, 15 U.S.C. §7903(5)(A)(iii).

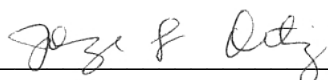
Is the FIRA preempted by the PLCAA?

If not preempted, is the application of FIRA to Smith & Wesson’s sales and marketing mediums consistent with the U.S. Constitution, or does it infringe upon the First and Second Amendments and the Dormant Commerce Clause?

If the FIRA is “declarative of existing law” but applies to “actions commenced or pending on or after August 14, 2023”, can a violation of the FIRA’s provisions be “knowingly” committed before the FIRA was enacted?

Smith & Wesson has not requested or brought forth any argument to stay these matters pending appeal. Therefore, this Court issues no stay of proceedings.

SO ORDERED.

ENTER: 
Jorge L. Ortiz, Circuit Judge

Dated this 06/05/2025, 2025, at Waukegan, Illinois.

Hearing Date: No hearing scheduled
Location: <<CourtRoomNumber>>
Judge: Calendar, 3

FILED
4/2/2026 4:21 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2024CH06875
Calendar, 3
37417069

EXHIBIT B

FILED DATE: 4/2/2026 4:21 PM 2024CH06875



**ILLINOIS APPELLATE COURT
SECOND DISTRICT**

**55 SYMPHONY WAY
ELGIN, IL 60120
(847) 695-3750**

September 22, 2025

Kenneth L. Schmetterer
DLA Piper LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606

RE: Roberts, Keely, et al. v. Smith & Wesson Brands, Inc., et.al.
Appeal No.: 2-25-0274
County: Lake County
Trial Court No.: 22LA487

The court has this day, September 22, 2025, entered the following order in the above entitled case:

Appellant's application for leave to appeal is denied.

Jeffrey H. Kaplan
Clerk of the Court

cc: Andrew Arthur Lothson
Antonio Maurizio Romanucci
Benjamin Adam Crane
Brett Michael Henne
Brian Eliot Cohen
Bruce W. Lyon
Christopher Renzulli
David Adam Neiman
Donna J. Vobornik
Dylan Smith
Edward Scheideman
Eirene-Gin Nakamura Salvi
Gina A. DeBoni
H Christopher Boehning
Isabela R. Bacidore

James Brian Vogts
Joshua Mitchell Levin
Katherine R. Danaher
Kristen Madeline Stoicescu
Kyle Stephen Blair
Lance D. Northcutt
Lise Elizabeth Rahdert
Lyndsey Marie Wajert
Matthew Stanley Sims
Michael Elliot Holden
Michael Frank Bonamarte, IV
Michael James Mullen
Nathan Carpenter
Nicolas Joseph Selvaggio
Priyanka Gupta Sen
Scott Charles Allan
Scott L. Braum
Shimon Ben Kahan
Tara Rae Devine
Timothy Rockwell Rudd

Hearing Date: No hearing scheduled
Location: <<CourtRoomNumber>>
Judge: Calendar, 3

FILED
4/2/2026 4:21 PM
Mariyana T. Spyropoulos
CIRCUIT CLERK
COOK COUNTY, IL
2024CH06875
Calendar, 3
37417069

EXHIBIT C

FILED DATE: 4/2/2026 4:21 PM 2024CH06875



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

January 28, 2026

In re: Keely Roberts, Indv., etc., et al., respondents, v. Smith & Wesson Brands, Inc., et al., petitioners. Leave to appeal, Appellate Court, Second District.
132414

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause and entered the following supervisory order:

In the exercise of this Court's supervisory authority, the Appellate Court, Second District, is directed to vacate its order in Roberts v. Smith & Wesson Brands, Inc., case No. 2-25-0274 (09/22/25), denying appellants' application for leave to appeal. The appellate court is directed to allow the application for leave to appeal.

The mandate of this Court will issue to the Appellate Court on 03/04/2026.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

Hearing Date: No hearing scheduled
Location: <<CourtRoomNumber>>
Judge: Calendar, 3

FILED
4/2/2026 4:21 PM
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CIRCUIT CLERK
COOK COUNTY, IL
2024CH06875
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EXHIBIT D

FILED DATE: 4/2/2026 4:21 PM 2024CH06875

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
LAKE COUNTY, ILLINOIS**

**Erin Cartwright Weinstein
Clerk of the Court
Lake County, Illinois**

KEELY ROBERTS, individually and as parent
and next friend of C.R. and L.R., and JASON
ROBERTS, individually and as parent and
next friend of C.R. and L.R.,

Plaintiffs,

v.

SMITH & WESSON BRANDS, INC., et al.,

Defendants,

Case No. 2022 LA 00000487

Consolidated with Case Nos.

- 22 LA 00000488; 22 LA 00000489;
- 22 LA 00000490; 22 LA 00000491;
- 22 LA 00000492; 22 LA 00000493;
- 22 LA 00000494; 22 LA 00000495;
- 22 LA 00000496; 22 LA 00000497;
- 22 LA 00000532; 24 LA 00000201;
- 24 LA 00000203; 24 LA 00000206;
- 24 LA 00000466; 24 LA 00000471;
- 24 LA 00000474; 24 LA 00000475;
- 24 LA 00000476; 24 LA 00000477;
- 24 LA 00000478; 24 LA 00000479;
- 24 LA 00000480; 24 LA 00000481

Hon. Jorge L. Ortiz

ORDER

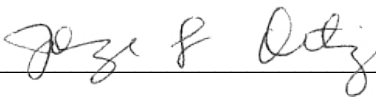
THIS CAUSE COMING TO BE HEARD on a status conference on March 12, 2026, due notice having been given, and the Court being fully advised in the premises;

IT IS HEREBY ORDERED:

1. Defendants Smith & Wesson and Bud's Motions to Stay Discovery Pending Interlocutory Appeal are denied.
2. Defendants Smith & Wesson and Bud's oral motions for a stay pending a decision on their forthcoming request for a stay from the Second District is denied.
3. The following discovery deadlines are continued until June 30, 2026: (i) Subpoenas for treating physicians' depositions; and (ii) Oral discovery & Rule 213(f)(1) and 231(f)(2) depositions, including party depositions.

4. Plaintiffs' Petitions to Approve Minors and Wrongful Death Settlements that have been filed are entered and continued until April 10, 2026.
5. This matter is set for a case management conference on April 10, 2026 at 9:30 a.m. in courtroom 201. Other topics to be addressed at the case management conference include the following:
 - a. Plaintiffs' Petitions to Approve Minors and Wrongful Death Settlements;
 - b. Status of the State's Attorney's Office's production of documents responsive to Plaintiffs' subpoena;
 - c. The consolidated case schedule and trial sequencing; and
 - d. The status of any appearance by substitute counsel for Red Dot.

SO ORDERED, this ___ day of _____, 2026,



Judge Jorge L. Ortiz

03/19/2026