E-FILED
Transaction ID: 2-25-0274
File Date: 4/8/2026 4:32 PM

Jeffrey H. Kaplan, Clerk of the Court
APPELLATE COURT 2ND DISTRICT

No. 2-25-0274

APPELLATE COURT OF ILLINOIS
FOR THE SECOND JUDICIAL DISTRICT

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

Plaintiffs-Appellees

v.

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

Defendants-Appellants.

And

CYBEAR INTERACTIVE, LLC, ET AL.,

Respondents in Discovery.

On Appeal from the Circuit Court of the
Nineteenth Judicial Circuit Lake County, Illinois
No. 22 LA 00000487 (Judge Jorge L. Ortiz)

UNOPPOSED MOTION OF THE NATIONAL ASSOCIATION OF SPORTING GOODS WHOLESALERS TO FILE BRIEF AS *AMICUS CURIAE* IN SUPPORT OF THE DEFENDANTS-APPELLANTS

The National Association of Sporting Goods Wholesalers ("NASGW"), by and through its undersigned counsel, hereby moves this Honorable Court for leave to file a brief as *amicus curiae* in support of Defendants-Appellants. In support of this motion, NASGW states the following:

1. NASGW is a not-for-profit corporation, and the leading organization in the shooting sports industry for product distribution, accounting for a significant percentage of wholesale sales. NASGW's members are primarily wholesale businesses (buyers) and manufacturers (sellers) of firearms and other sporting goods.

2. NASGW aims to promote the common interest of the sporting goods industry and to be the indispensable partner for the U.S. shooting sports trade. To that end, NASGW maintains an active liaison with the trade associations of all other segments of the industry, including the National Shooting Sports Foundation ("NSSF"), the National Rifle Association ("NRA"), and the Congressional Sportsmen's Foundation ("CSF"), and organizes an annual expo that provides educational, marketing, and communications opportunities for hunting and shooting sports professionals.

3. NASGW has previously filed *amicus* briefs in cases that present questions of interest and concern to NASGW's members.

4. Between 2022 and 2024, various plaintiffs filed suit against numerous firearm-industry members, including NASGW member Smith & Wesson Brands, Inc., Smith & Wesson Sales Company, and Smith & Wesson, Inc. (together, "Smith & Wesson"), seeking to hold them liable for the heinous criminal conduct of Robert Crimo Jr., committed during a Fourth of July parade in Highland Park.

5. Smith & Wesson contributes in a positive way to the lawful manufacture and sale of firearms in the United States and provides opportunity for law-abiding citizens to exercise their Second Amendment rights to keep and bear arms.

6. Nevertheless, the court below greenlighted Plaintiffs' lawsuit against Smith & Wesson and others seeking relief for harm caused by criminal conduct beyond their control, denying Smith & Wesson's motion to dismiss on various grounds—including rejecting Smith & Wesson's argument that Plaintiffs' lawsuit is preempted by the Protection of Lawful Commerce in Arms Act ("PLCAA").

7. As a friend of the Court, NASGW wishes to present argument in support of Smith & Wesson, discussing the history, purpose, and mechanics of the PLCAA, how the court below misunderstood the PLCAA's application to this case, and how that misunderstanding is part of a trend in the states that will cause significant financial harm to the firearm industry, including likely bankrupting many manufacturers, distributors, and retailers, and degrade the Second Amendment right to keep and bear arms.

8. NASGW respectfully submits that its views may be of assistance to the Court's adjudication of this appeal.

9. NASGW has contacted the parties to this appeal. Plaintiffs-Appellees have informed NASGW that they do not oppose the motion. Defendants-Appellants have also informed NASGW that they do not oppose the motion.

WHEREFORE, for the foregoing reasons, NASGW respectfully moves this Court for leave to file an *amicus curiae* brief in support of Defendants-Appellants.

Respectfully submitted,

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Dated: April 8, 2026

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AMICUS CURIAE BRIEF OF THE NATIONAL ASSOCIATION OF SPORTING GOODS WHOLESALERS IN SUPPORT OF THE DEFENDANTS-APPELLANTS

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April 8, 2026

POINTS AND AUTHORITIES

STATEMENT OF INTEREST OF *AMICUS CURIAE*

The National Association of Sporting Goods Wholesalers ("NASGW") is the leading organization in the shooting sports industry for product distribution, accounting for a significant percentage of wholesale sales. NASGW's members are primarily wholesale businesses (buyers) and manufacturers (sellers) of firearms and other sporting goods. NASGW aims to promote the common interest of the sporting goods industry and to be the indispensable partner for the U.S. shooting sports trade. To that end, NASGW maintains an active liaison with the trade associations of all other segments of the industry, including the National Shooting Sports Foundation ("NSSF"), the National Rifle Association ("NRA"), and the Congressional Sportsmen's Foundation ("CSF"), and organizes an annual expo that provides educational, marketing, and communications opportunities for hunting and shooting sports professionals. As a friend of the Court, NASGW wishes to present argument in support of its member Smith & Wesson Brands, Inc., Smith & Wesson Sales Company, and Smith & Wesson, Inc. (together, "Smith & Wesson"), who are Defendants-Appellants in this case, discussing the history, purpose, and mechanics of the Protection of Lawful Commerce in Arms Act ("PLCAA"), explaining how the court below misunderstood the PLCAA's application to this case, and situating that misunderstanding as part of a larger trend in the states that will cause significant financial harm to the firearm industry, including likely bankrupting many manufacturers, distributors, and retailers, and degrade the Second Amendment right to keep and bear arms. NASGW respectfully submits that its views may be of some assistance to the Court's adjudication of this appeal.

INTRODUCTION

In 2005, Congress passed the PLCAA to stamp out efforts to use generic state-laws to hold law-abiding manufacturers and sellers of firearms liable for harms caused by criminals who misuse their products. That purpose is evident on the face of the statute: Congress declared in the text that the PLCAA's core aim is to prevent lawsuits seeking redress from businesses engaged in lawful commerce "for the harm caused by those who criminally or unlawfully misuse firearm products … that function as designed and intended." 15 U.S.C. §7901(a)(5). To that end, the PLCAA broadly preempts any "civil action" "against a manufacturer or seller of a [firearm or related] product" for injuries "resulting from the … misuse of a [firearm or related] product by … a third party." *Id.* §§7902(a), 7903(5)(A). That rule is subject to only a narrow set of enumerated exceptions, all for suits involving direct and unambiguous misconduct by the manufacturer or seller itself.

Plaintiffs' action here is an attempt to end-run the PLCAA. According to Plaintiffs, Smith & Wesson's continued marketing and sale of legal and immensely popular rifles "offend[s] public policy," is "immoral," and "cause[s] substantial injury to innocent civilians," because Smith & Wesson is allegedly aware that criminals have misused a certain model of Smith & Wesson rifle in three out of the "over 343 mass shootings" in the United States over the past decade plus—including most recently by a Mr. Robert Crimo, Jr., on July 4, 2022, in Highland Park, Illinois. Compl. ¶¶91, 157, 166, 189-91, 210-13. Plaintiffs seek to hold Smith & Wesson liable to pay damages for "the actions of disturbed and hate-filled young men like the [Highland Park] Shooter." Compl. ¶18. Put differently, Plaintiffs' action is exactly the kind of lawsuit—based on "the criminal or unlawful misuse of" an industry member's lawfully made and lawfully sold products—that the PLCAA says "may not be brought." 15 U.S.C. §§7902(a), 7903(5)(A).

The court below blessed Plaintiffs' action by invoking the PLCAA's so-called "predicate exception," which allows suits alleging that a manufacturer or seller "knowingly violated a State ... statute applicable to the sale or marketing of" firearms if "the violation was a proximate cause of the harm for which relief is sought." *Id.* §7903(5)(A)(iii). But as court after court has held, statutory text, structure, and context—not to mention basic common sense—foreclose any argument that the predicate exception empowers litigants to revive the very suits that Congress passed the PLCAA to inter. To conclude otherwise would "allow the predicate exception to swallow the statute." *City of New York v. Beretta U.S.A. Corp.*, 524 F.3d 384, 403 (2d Cir. 2008). The predicate exception instead exempts a narrow set of actions that are predicated on the *knowing* violation of a law that imposes clear and concrete obligations or prohibitions on industry members. It does not implicate statutes that—like the Illinois Consumer Fraud and Deceptive Businesses Practices Act ("CFA") and the Illinois Uniform Deceptive Trade Practices Act ("DTPA"), on which Plaintiffs rely here—merely impose generic duties of fairness for courts to develop after the fact and disregard *mens rea* and proximate cause in the process, thus operating no differently from the novel common-law actions that motivated Congress to enact the PLCAA in the first place. *See Ileto v. Glock, Inc.*, 565 F.3d 1126, 1135-38 (9th Cir. 2009).

That is reason enough to reverse the court below. But additional reasons abound. As Smith & Wesson ably explains, Plaintiffs' action runs headlong into various constitutional problems. And the practical problems with allowing lawsuits like this one are arguably even more pernicious. No one disputes that what happened in Highland Park was a tragedy. But that is not what this case is about. This case is about whether a lawful industry that contributes to the national economy and is necessary to the exercise of a fundamental constitutional right should be held liable for the criminal acts of others. Just as there is no hecklers-veto under the First Amendment, there is no criminals-veto here. The criminal conduct of Mr. Crimo was evil, but it provides no reason to circumvent the PLCAA and bankrupt the very industry that supports the fundamental right of law-abiding citizens to keep and bear arms. Two wrongs do not make a right. The court below lost sight of that reality.

ARGUMENT

I. The PLCAA Protects Firearm Industry Members From Being Held Liable For The Criminal Misconduct Of Third Parties.

1. The Constitution "confer[s] an individual right to keep and bear arms." *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1, 20 (2022) (quoting *District of Columbia v. Heller*, 554 U.S. 570, 595 (2008)); *see* U.S. Const. amend. II. And "the core Second Amendment right to keep and bear arms for self-defense 'wouldn't mean much' without the ability to acquire arms." *Teixeira v. Cnty. of Alameda*, 873 F.3d 670, 677 (9th Cir. 2017) (en banc) (quoting *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011)).

Nevertheless, in the late 1990s, state and local governments began trying to use novel applications of state tort law to hold "manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended" accountable "for the harm caused by the misuse of firearms by third parties, including criminals." 15 U.S.C. §7901(a)(3); *see id.* §7901(a)(4); *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 285 (2025). They invoked a variety of theories, including: strict liability for abnormally dangerous activities or defective design, *Penelas v. Arms Tech., Inc.*, 778 So.2d 1042, 1043-44 (Fla. Dist. Ct. App. 2001); negligent marketing, *City of St. Louis v. Cernicek*, 145 S.W.3d 37, 38, 40 (Mo. Ct. App. 2004) (per curiam); negligent distribution, *District of Columbia v. Beretta, U.S.A., Corp.*, 847 A.2d 1127, 1131 (D.C. 2004); deceptive trade practices, *Taurus*

Holdings, Inc. v. U.S. Fid. & Guar. Co., 367 F.3d 1252, 1252-53 (11th Cir. 2004) (per curiam); and public nuisance, *Sills v. Smith & Wesson Corp.*, 2000 WL 33113806, at *7 (Del. Super. Ct. Dec. 1, 2000), among others.

Some of these suits succeeded in stretching the common law far beyond its traditional limits—and in allowing state's courts to police the business practices of industry members operating elsewhere. *See, e.g.*, *City of Cincinnati v. Beretta U.S.A. Corp.*, 768 N.E.2d 1136, 1143-47 (Ohio 2002); *James v. Arms Tech., Inc.*, 820 A.2d 27, 37-44, 46-47, 50-53 (N.J. Super. Ct. App. Div. 2003); *City of Gary ex rel. King v. Smith & Wesson Corp.*, 801 N.E.2d 1222, 1231-32, 1241-42 (Ind. 2003). Others were unsuccessful. *See, e.g.*, *City of Chicago v. Beretta U.S.A. Corp.*, 821 N.E.2d 1099, 1147-48 (Ill. 2004); *Camden Cnty. Bd. of Chosen Freeholders v. Beretta, U.S.A. Corp.*, 273 F.3d 536, 540 (3d Cir. 2001) (per curiam). But the final tally told only part of the story. Had these sprawling suits been permitted to persist and proliferate, the legal fees alone would have bankrupted the industry. That, indeed, was in large part the point: "[M]unicipal leaders pressed on regardless of their chance of success, spending taxpayers' money in a war of attrition against the firearm[] industry." Recent Legislation, *Protection of Lawful Commerce in Arms Act*, 119 Harv. L. Rev. 1939, 1940 (2006).

It did not take long for Congress to recognize these lawsuits for what they were: a coordinated effort to try to destroy the firearm industry by saddling it with liability for the acts of criminals. States pressed "theories without foundation in hundreds of years of the common law and jurisprudence of the United States" and threatened interstate comity by permitting one state to penalize lawful conduct in another state. 15 U.S.C. §7901(a)(7)-(8). They did so, moreover, at substantial cost to individual rights, including the Second Amendment right to keep and bear arms, *id.* §7901(a)(2), (a)(6), as well as the rights of industry members to pursue their trade consistent with the Constitution's privileges and immunities guarantee, *id.* §7901(a)(7). And it was profoundly unfair, to boot, to hold lawful businesses engaged in the lawful sale of constitutionally protected products liable "for the harm caused by those who criminally or unlawfully misuse ... products that function as designed and intended." *Id.* §7901(a)(5).

2. Congress enacted the PLCAA to put an end to such state-law actions. Indeed, the PLCAA's very first enumerated "purpose[]" is to "prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations" based on harm "caused by the criminal or unlawful misuse of firearm products" by third parties. *Id.* §7901(b)(1); *see also id.* §7901(a)(6) (finding that such suits are "an abuse of the legal system, ... threaten[] the diminution of a basic constitutional right and civil liberty, ... and constitute[] an unreasonable burden on interstate and foreign commerce").

The statute makes good on that promise, prohibiting all such suits from being "brought in any Federal or State court." *Id.* §7902(a). The PLCAA preempts "civil action[s] … brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party." *Id.* §7903(5)(A); *see id.* §7903(2)-(4), (6), (8)-(9) (defining "person," "manufacturer," "seller," "trade association," "qualified product," and "unlawful misuse").

The PLCAA's unequivocal language is not just a defense against liability; it is "an explicit statutory … guarantee that trial will not occur." *Midland Asphalt Corp. v. United States*, 489 U.S. 794, 801 (1989). It is no wonder, then, that courts across the country—including the Supreme Court of the United States—have consistently interpreted the statute as creating not just a shield from liability, but an immunity from suit entirely. *See, e.g.*, *Smith & Wesson*, 605 U.S. at 299; *In re Acad., Ltd.*, 625 S.W.3d 19, 32-36 (Tex. 2021); *KS&E Sports v. Runnels*, 72 N.E.3d 892, 904-05 (Ind. 2017); *Sambrano v. Savage Arms, Inc.*, 338 P.3d 103, 104 (N.M. Ct. App. 2014).

Only six enumerated types of claims fall outside that "PLCAA-granted immunity." *See Smith & Wesson*, 605 U.S. at 299. These exceptions are limited to circumstances in which the manufacturer or seller itself engaged in some welldefined type of wrongful conduct, such as claims for design or manufacturing defect, fraudulent transfer, negligent entrustment, breach of contract or warranty, or violation of a statutory or regulatory requirement specific to the sale or manufacture of arms. *See* 15 U.S.C. §7903(5)(A).

One exception relevant here is the so-called "predicate exception," which exempts "an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought." *Id.* §7903(5)(A)(iii). As courts have explained, that exception must be read in light of both "the specific context in which [it] is used" and "the broader context of the statute as a whole." *Ileto*, 565 F.3d at 1134 (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)); *accord City of New York*, 524 F.3d at 400. For example, Congress provided examples of the kind of statutes it had in mind when it drafted the exception: (I) statutes prohibiting industry members from making false entries in or omitting information from firearm-sale records; and (II) statutes prohibiting industry members from facilitating straw purchases. 15 U.S.C. §7903(5)(A)(iii). Accordingly, both the immediately surrounding text and the language that immediately follows provide clear indications that the predicate exception exempts from the PLCAA's preemptive reach only statutes that impose concrete obligations and prohibitions that a firearm industry member can understand and comply with, not statutes that merely impose broad duties of care, leaving it to courts to fill in the details later. Indeed, that is the only sensible way to read the predicate exception, as interpreting it to permit states to reinstate exactly the kinds of novel public nuisance suits that led Congress to enact the PLCAA would "allow the predicate exception to swallow the statute." *City of New York*, 524 F.3d at 403; *see also Ileto*, 565 F.3d at 1137 (noting that, in enacting the PLCAA, "Congress was primarily concerned with novel nuisance cases like *Ileto*").

3. After Congress passed the PLCAA, federal and state courts routinely rejected efforts to evade the law's protections for the firearm industry. Some plaintiffs challenged the statute's constitutionality, but courts across the country—including the Illinois Supreme Court—rejected such challenges, holding that the PLCAA is a lawful exercise of Congress's power under the Commerce Clause, *see, e.g.*, *Adames v. Sheahan*, 909 N.E.2d 742, 765 (Ill. 2009); *City of New York*, 524 F.3d at 393-95; is consistent with the Constitution's separation of powers, *see, e.g.*, *Ileto*, 565 F.3d at 1139-40; *District of Columbia v. Beretta U.S.A. Corp.*, 940 A.2d 163, 172-73 (D.C. 2008); *City of New York*, 524 F.3d at 395-96; comports with the Tenth Amendment, *see, e.g.*, *Delana v. CED Sales, Inc.*, 486 S.W.3d 316, 323-24 (Mo. 2016); *City of New York*, 524 F.3d at 396-97; *Adames*, 909 N.E.2d at 764-65; and does not violate the Takings, Equal Protection, Due Process, or Petition Clauses, *see, e.g.*, *Ileto*, 565 F.3d at 1140-42; *Delana*, 486 S.W.3d at 324; *District of Columbia*,

940 A.2d at 173-82; *City of New York*, 524 F.3d at 397-98.

Other plaintiffs sought to skirt the PLCAA's general prohibition on covered actions. Just as often, courts carefully policed the statute's ban and rejected efforts to expand its narrow exceptions. For instance, the Missouri Supreme Court held that, to qualify as a prohibited action "resulting from the criminal … misuse" of a firearm under §7903(5)(A), the PLCAA does not require the criminal misuse to have resulted in criminal conviction or to have been the sole cause of injury. *Delana*, 486 S.W.3d at 321. The Supreme Court of Texas rejected an effort to invoke the negligent entrustment exception under §7903(5)(A)(ii) because that state's common law did not recognize such an action. *In re Acad.*, 625 S.W.3d at 30-32. And the Second and Ninth Circuits concluded that statutory codification of state tort law on wrongful death, nuisance, and negligence actions could not satisfy the so-called "predicate exception" set forth in §7903(5)(A)(iii). *City of New York*, 524 F.3d at 400-04; *Ileto*, 565 F.3d at 1137-38.

Most recently, the Pennsylvania Supreme Court unanimously rejected a Pennsylvania plaintiff's attempt to circumvent the PLCAA, holding that the PLCAA embodies "a valid exercise of Congress's Commerce Clause authority and does not violate the Tenth Amendment or principles of federalism" and that it "operates to bar" plaintiff's state law products liability claims against a firearm manufacturer's lawful commerce. *Gustafson v. Springfield, Inc.*, 333 A.3d 651, 683 (Pa. 2025), *cert.*

denied, 2025 WL 3620464 (U.S. Dec. 15, 2025). And of course, the Supreme Court of the United States also recently confirmed that the PLCAA was duly enacted "to prevent manufacturers (and sellers) from being held 'liable for the harm caused by those who criminally or unlawfully misuse firearm[s]'" and so rejected Mexico's attempt to circumvent it by suing "American firearms manufacturers for the downstream damage Mexican cartel members wreak with their guns." *Smith & Wesson*, 605 U.S. at 289-99 (quoting 15 U.S.C. §7901(a)(5)).

II. The Circuit Court Erred In Allowing Plaintiffs' Case To Proceed Notwithstanding The PLCAA.

The court below failed to appreciate the significance and scope of the PLCAA. Rather than greenlight Plaintiffs' attempt to circumvent the PLCAA, it should have granted Smith & Wesson's motion to dismiss based on principles of federal preemption and PLCAA immunity.

A. Plaintiffs' Action Is Preempted.

1. When a federal law "imposes restrictions" and a state action conflicts "with the federal law, the federal law takes precedence and the state [action] is preempted." *Kansas v. Garcia*, 589 U.S. 191, 202 (2020). That is exactly the situation here. The PLCAA imposes clear restrictions: No court, state or federal, may entertain a "civil action … against a manufacturer or seller of a [firearms] product … for damages … resulting from the criminal or unlawful misuse of a qualified product by … a third party." 15 U.S.C. §7903(5)(A). Plaintiffs' lawsuit,

in turn, conflicts with those restrictions: It asks this Court to adjudicate a manufacturer and sellers of firearms liable for damages resulting from the criminal misuse of firearms by a third party. Plaintiffs' lawsuit is therefore preempted.

One need look no further than Plaintiffs' complaint to determine that it is exactly the kind of action the PLCAA preempts, as it seeks to subject those who (lawfully) manufacture, market, and sell (lawful) firearm products to liability for harms "resulting from the criminal or unlawful misuse of a qualified product by … a third party." 15 U.S.C. §7903(5)(A). Plaintiffs describe how Mr. Robert Crimo, Jr.—owner of a Firearm Owners Identification ("FOID") card sponsored by his father, Compl. ¶115-20—(lawfully) purchased a (lawful) "Smith & Wesson M&P15 … online from Budsgunshop.com … when he was 19 years old," and later (heinously and criminally) "used it to open fire on hundreds of innocent people attending the Fourth of July parade in Highland Park, Illinois." Compl. ¶29. And they seek to hold Smith & Wesson liable to pay damages for "the actions of disturbed and hate-filled young men like the Shooter," Compl. ¶18—"impulsive" and "delusion[al]" individuals who use firearms "to effectively execute their violent fantasies and undertake unlawful paramilitary, militia, or military activity," Compl. ¶89.

According to Plaintiffs, Smith & Wesson's continued marketing and sale of legal and immensely popular rifles "offend[s] public policy," is "immoral," and "cause[s] substantial injury to innocent civilians," because Smith & Wesson is allegedly aware that criminals have misused a particular model of Smith & Wesson rifle in three out of the "over 343 mass shootings," in the U.S. over the past decade plus. Compl. ¶¶91, 157, 166, 189-91, 210-13. Moreover, Plaintiffs claim that Smith & Wesson is complicit in that downstream criminal conduct because it markets to "younger consumers" (who, of course, are allowed to purchase firearms) to encourage them to participate in "hunting and target shooting" activities (which, again, are lawful). Compl. ¶83. While those allegations are all baseless, that is beside the point here. What matters is that Plaintiffs' action is self-evidently based on "the criminal or unlawful misuse of" an industry member's lawfully made and lawfully sold products, and thus the prototypical tort-style lawsuit that the PLCAA says "may not be brought." 15 U.S.C. §§7902(a), 7903(5)(A). That is obviously true for Plaintiffs' common-law claims based on alleged failures of "reasonable care" and the like. *See, e.g.*, Compl. ¶¶221-327; *see also Ileto*, 565 F.3d at 1135-36 ("Congress clearly intended to preempt common-law claims" including "classic negligence … theories of liability."); pp.5-8, *supra*. And it is equally true of the statutory claims. *See* Compl. ¶¶153-220; *see* pp.15-27, *infra*.

2. The only question, then, is whether Plaintiffs' action falls within any of the PLCAA's exceptions. Contrary to the holding below, it does not.

The court below held that Plaintiffs' statutory claims fit within the so-called "predicate exception," which exempts "an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought." 15 U.S.C. §7903(5)(A)(iii). In particular, the court held that "the PLCAA does not bar Plaintiffs' negligence or statutory claims" because "[t]here is nothing in the text of PLCAA to indicate that Congress intended to shield [Smith & Wesson] from liability based on Plaintiffs' allegations" concerning Smith & Wesson's alleged "wrongful marketing and advertising." Op.22. That is wrong at every turn.

To be sure, Plaintiffs' action is (and its negligence claims are) premised on two state statutes—the Illinois CFA and DTPA—that apply to the sale or marketing of firearms in a generic sense. *See* Op.3-4, 18-19 & n.4; Compl. ¶¶167-385. But that is not the relevant inquiry. After all, the predicate exception cannot sensibly be read to exempt any and all actions that are premised in part or in whole on statutes that might apply to the firearm industry (explicitly or not), as such a capacious reading "'would allow the predicate exception to swallow the statute, which was intended to shield the firearms industry from vicarious liability for harm caused by firearms that were lawfully distributed into primary markets." *City of New York*, 524 F.3d at 403; *Smith & Wesson*, 605 U.S. at 299 (same). Nor can it sensibly be read to exempt the very suits that the PLCAA was enacted to foreclose. On the contrary, text, structure, context, and common sense all make clear that the only kinds of actions that qualify under the predicate exception are those that seek to hold the firearm industry liable for violating concrete obligations or prohibitions imposed directly on industry members (and that could be tested for consistency with the Second Amendment), not actions that seek to impose only amorphous duties of care vis-à-vis the misconduct of third parties. The court below rejected that argument, *see* Op.23, but failed to even analyze the PLCAA's text in the process. This Court should not repeat that error.

a. Starting with the text, the court's holding that the predicate exception covers any law capable of being applied to the firearms industry is belied by the fact that Congress supplied in the PLCAA illustrative examples of what kinds of predicate laws it had in mind. There would have been no need to do so if the exception was meant to reach literally any law that applies to the firearms industry, as that is hardly a concept that requires illumination. The whole point of providing examples is to inform the meaning of general phrases like "applicable to"—which is why interpretive canons teach that general language must be "construed to embrace only objects similar in nature to those objects enumerated by the preceding specific words" that "follow." *Wash. State Dep't of Soc. & Health Servs. v. Guardianship*

Est. of Keffeler, 537 U.S. 371, 384 (2003). And the two examples Congress supplied in the predicate exception look nothing like the CFA or the DTPA.

The first is a knowing violation of a recordkeeping requirement, *i.e.*, knowingly omitting from or entering false information into the records that industry members are legally required to keep, or aiding, abetting, or conspiring with someone to make a false statement material to the lawfulness of a sale. 15 U.S.C. §7903(5)(A)(iii)(I); *see also Twitter, Inc. v. Taamneh*, 598 U.S. 471, 486 (2023) (aiding-and-abetting liability limited to cases where "the defendant ... knowingly and substantially assist[ed] the principal violation" (quoting *Halberstam v. Welch*, 705 F.2d 472, 477 (D.C. Cir. 1983))). The second is a knowing violation of the statutory prohibition on knowingly facilitating straw purchases, *i.e.*, aiding, abetting, or conspiring to sell a firearm to someone the seller knows or has reasonable cause to believe is buying it for someone who is prohibited from possessing it. 15 U.S.C. §7903(5)(A)(iii)(I). Both of those examples involve laws that tell industry members in no uncertain terms what they must do or not do to comply with them. That, in turn, ensures that an industry member can actually "knowingly violate[]" them, which is the culpable level of *mens rea* the predicate exception demands. *See id.* §7903(5)(A)(iii).

The CFA and DTPA, by contrast, make it unlawful for a company to engage in "[u]nfair methods of competition and unfair or deceptive acts or practices," 815

ILCS 505/2, or "in any other conduct which … creates a likelihood of confusion or misunderstanding" with respect to its products or services, 815 ILCS 510/2, et seq. The statutes thus leave industry members guessing as to what otherwise-lawful conduct may retroactively be deemed unfair or confusing, based on circumstances that may not even have been evident at the time, thereby exposing them to crippling liability without regard to whether they had any reason to "know" contemporaneously that their conduct might "violate" anything.

The Illinois Firearm Industry Responsibility Act ("FIRA")—which recently amended the CFA—does not solve that problem. As relevant here, FIRA amended the CFA to make it unlawful "for any firearm industry member, through the sale, manufacturing, importing or marketing of a [firearm] to … [a]dvertise, market, or promote a [firearm] in a manner that reasonably appears to support, recommend, or encourage individuals to engage in unlawful paramilitary or private militia activity in Illinois, or [civilians] … to use a [firearm] … for a military-related purpose in Illinois." 815 ILCS 505/2DDDD.[1] But neither FIRA nor the CFA defines or in any

[1] FIRA further amended the CFA to make it unlawful for any industry member to "[k]nowingly create, maintain, or contribute to a condition in Illinois that endangers the safety or health of the public by conduct either unlawful in itself or unreasonable under all circumstances, including failing to establish or utilize reasonable controls." 815 ILCS 505/2DDDD(b)(1). It also makes it unlawful for any industry member to "advertise, market, promote, design, or sell any firearm-related product in a manner that reasonably appears to support, recommend, or encourage persons under 18 years of age to unlawfully purchase or possess or use a firearm-related product in Illinois." *Id.* at 505/2DDDD(B)(3). While neither provision would qualify as a predicate

way specifies what it means for an advertisement to "reasonably appear to support" or "recommend" or "encourage" the prohibited activities.

Nothing about those statutory requirements provides any concrete obligation that firearm industry members must comport with (or could knowingly violate), nor does the DTPA, at least, apply expressly to the firearm industry. It remains a mystery how a manufacturer or retailer who meticulously complies with every aspect of federal, state, and local law is supposed to know in real-time that their marketing and sale of a firearm to a then-law-abiding citizen is somehow unlawful because it is "unfair" or "reasonably appear[s] to support" paramilitary activity, or even that a criminal third-party might misunderstand their marketing and intend to put the firearm towards nefarious ends at some point in the future.

Of course, the enumerated examples in the predicate exception are illustrative, not exhaustive. But no Defendant in this case has argued that nothing save a statute that mirrored one of the two examples provided by Congress in §7903(5)(A)(iii) could qualify as a predicate statute. Nor could they. The point is that the specific examples Congress provided must inform the meaning of the more general phrase "statute applicable to the sale or marketing of [a firearm or related] product." *See Fischer v. United States*, 603 U.S. 480, 487 (2024) (explaining that "the canon of

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statute for much the same reason that 815 ILCS 505/2DDDD(b)(2) does not, Plaintiffs do not rely on either provision to advance their claims.

noscitur a sociis" helps courts "'avoid[] ascribing to one word a meaning so broad that it is inconsistent with' 'the company it keeps'" (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995))). Indeed, if that is not what they are there for, then there would have been no point in including them. They are illustrative, not superfluous.

b. In addition to misunderstanding Congress's illustrative examples, the court below ignored the PLCAA's expressly enumerated findings, which too reinforce the conclusion that the predicate exception applies only to laws that impose concrete obligations or prohibitions, not just duties of care to avoid unfair or unreasonable conduct.

As the statute explains, its chief aim is to foreclose efforts to hold those engaged in "the lawful design, manufacture, marketing, distribution, importation, or sale … of firearms or [related] products … liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended." 15 U.S.C. §7901(a)(5). And the term "lawful" there means "done in compliance with statutes like those described in" the immediately preceding finding—*i.e.*, "the Gun Control Act of 1968, the National Firearms Act, and the Arms [Export] Control Act." *City of New York*, 524 F.3d at 402-03; *see* 15 U.S.C. §7901(a)(4). Those statutes do not impose amorphous commands to manufacture, sell, distribute, or market firearms "reasonably," or "fairly," leaving judges and juries to decide what that means later. They are comprehensive regimes that impose concrete obligations and prohibitions with which industry members can confidently ensure compliance (or, conversely, that an industry member can sensibly be said to violate *knowingly*) in real time.

3. Reading the predicate exception to exempt actions like this one would effectively gut the PLCAA. The unambiguous objective of the PLCAA is to foreclose efforts to impose liability on those engaged in lawful commerce in firearms through novel and expansive "theories without foundation in hundreds of years of the common law and jurisprudence of the United States." 15 U.S.C. §7901(a)(7). As courts recognized, the problem Congress had with the pre-PLCAA tort suits was that they sought to "expand civil liability" well beyond its traditional moorings, constituting "an abuse of the legal system." *Id.* §7901(a)(6)-(7). Congress thus opted "[t]o prohibit [such] causes of action" entirely, without regard to whether they are brought pursuant to tort law or a statute codifying it and no matter how monikered. *Id.* §7901(b)(1).

That is why, for instance, the District of Columbia's highest court held that a D.C. law making industry members "'strictly liable in tort' for ... injuries resulting from the discharge of an assault weapon" they made or sold could not serve as a predicate statute, as it "merely" "impose[d] a duty to pay compensation" if "a person is ... injured by the discharge of an assault weapon," and thus is no different from the sprawling claims Congress set out to inter. *District of Columbia*, 940 A.2d at

167, 170-72. In short, "Congress clearly intended to preempt common-law claims, such as general tort theories of liability," like "negligence and nuisance." *Ileto*, 565 F.3d at 1135. And as the Ninth Circuit squarely held in *Ileto*, the PLCAA effectuates that intent by preempting such claims even when they are premised on a statute codifying those common-law theories. *Id.* at 1135-36.

The court below rejected that understanding of the PLCAA based entirely on *Soto v. Bushmaster Firearms International*, 202 A.3d 262 (Conn. 2019). *See* Op.21 ("This Court finds the analysis and reasoning of the *Soto* court very persuasive and relies on it to reach its own conclusion[s]."). But *Soto* does not support the decision below. In that case, estate administrators of elementary school students and faculty filed suit against manufacturers, distributors, and sellers of a Bushmaster rifle that was (mis)used by a criminal third party to commit a school shooting in 2012, seeking damages and injunctive relief based on various causes of action. *Soto*, 202 A.3d at 272. In a lengthy opinion, the Connecticut Supreme Court "expressly reject[ed] the plaintiffs' theory that, merely by selling semiautomatic rifles—which were legal at the time—to the civilian population, the defendants' became responsible for any crimes committed with those weapons." *Id.* (footnote omitted). Accordingly, the court affirmed the lower court's order striking most of the plaintiffs' claims, which sought to hold firearm industry members liable for the criminal conduct of another. *Id.* at 325.

To be sure, *Soto* did allow the plaintiffs' claim under Connecticut's Unfair Trade Practice Act to proceed, on the theory that the PLCAA's predicate exception greenlights all "actions alleging a violation of any law that is capable of being applied to the sale and marketing of firearm." *Id.* at 302. And the decision below embraced that reasoning. But there is a reason every other court to address the issue has rejected that (mis)interpretation of the predicate exception. As multiple courts have held, Congress intended to preempt all actions that seek to hold firearm industry members liable for the criminal conduct of third parties beyond their control. *See* pp.7-8, *supra*. It makes no difference if such an action is premised on a state statute. *See Ileto*, 565 F.3d at 1138 (holding "that Congress intended to preempt general tort law claims" even when a state "codifie[s] those claims in its civil code"); *Beretta*, 940 A.2d at 168-72 (same). *Contra* Op.19-20.

Indeed, if a suit based on the same or similar theories of liability could not be sustained under the common law, then it cannot be that the exact same lawsuit is fine so long as a plaintiff files it as premised on some generally applicable statute. Congress's aim in enacting the PLCAA was not to prompt plaintiffs to reinitiate the same litigation all over again under state statutes. Congress wanted to foreclose the kind of regulation-via-litigation that pre-PLCAA lawsuits sought to accomplish—i.e., using general standards and "judicial evolution" to hold industry members liable after the fact for conduct that complied with applicable laws and regulations at the time. *Ileto*, 565 F.3d at 1136. That is why Congress crafted a narrow exception only for clear requirements that could be complied with (or knowingly violated) in real time—not for "general tort theories that happened to have been codified." *Id.*

To ascribe a contrary meaning to the predicate exception would produce absurd results, as it not only would make the PLCAA trivially easy to evade, but would make preemption of virtually identical suits grounded in virtually identical departures from traditional legal principles turn on whether and how a state has codified those newfangled theories. That result would defy "Congress'[s] intention to create national uniformity." *Id.* It would also defy black-letter canons of construction requiring courts to "narrowly" construe statutory exceptions "in order to preserve the primary operation of the provision." *E.g.*, *Maracich v. Spears*, 570 U.S. 48, 60 (2013). Simply put, any reading of the predicate exception (like *Soto*'s and the court's below) that allows plaintiffs to sneak in through the back door the very claims Congress tossed out the front would put the PLCAA at war with itself.

Finally, "to the extent that there is legislative history illuminating the meaning of the predicate exception, it 'reflect[s] the understanding that manufacturers and sellers of firearms would be liable only for statutory violations concerning firearm regulations or sales and marketing regulations.'" *Soto*, 202 A.3d at 339-40

(Robinson, J., dissenting) (quoting *Ileto*, 565 F.3d at 1137).[2] *Contra* Op.21-22. Indeed, *both* proponents *and* opponents of the PLCAA understood that it would protect the firearms industry against novel lawsuits based on "deceptive marketing" laws and "other pretext[s]," 151 Cong. Rec. 18,073 (statement of Senator Hatch), including those involving "manufacturers that promote [alleged] military-style weapons." 151 Cong. Rec. 19,121-2 (statement of Senator Kennedy). The contrary decision of the court below defies the text, context, and legislative history of the PLCAA.

B. At a Minimum, Plaintiffs' Action Is Preempted Because Plaintiffs Fail to Allege Proximate Cause.

Even assuming that the CFA (as amended by FIRA) and/or the DTPA qualify as "a State or Federal statute applicable to the sale or marketing of the product," 15 U.S.C. §7903(5)(A)(iii); *but see* Part II.A., *supra*, that alone would not be enough to rescue Plaintiffs' action from the preemptive force of the PLCAA. That is because the predicate exception exempts those actions based on a knowing violation of "a State or Federal statute applicable to the sale or marketing of the product," only if "*the violation was a proximate cause of the harm for which relief is sought.*" 15 U.S.C. §7903(5)(A)(iii) (emphases added). Yet Plaintiffs' action seeks to impose

[2] As the *Soto* dissent aptly pointed out, the academic commentary also "supports this interpretation of the predicate exception." 202 A.3d at 353 n.20 (citing numerous articles).

liability on Smith & Wesson and firearm retailers without pleading proximate cause in the ordinary sense. But by requiring "proximate cause," Congress plainly did not leave it to state courts to make up their own novel definitions of proximate cause. It meant "to incorporate the well-settled meaning of the common-law term[] it use[d]." *Jam v. Int'l Fin. Corp.*, 586 U.S. 199, 210-11 (2019). And, under the common law, not only is "foreseeability alone … not sufficient to establish proximate cause," *Bank of Am. Corp. v. City of Miami*, 581 U.S. 189, 201 (2017), but there must be a "direct relation between the injury asserted and the injurious conduct alleged," *Holmes v. Sec. Inv. Prot. Corp.*, 503 U.S. 258, 268 (1992).

While the common law in Illinois (and elsewhere) has for decades treated criminal misconduct as an intervening cause that *defeats* proximate cause for events occurring earlier in the causal chain, *see, e.g.*, *Kemp v. Sisters of Third Ord. of St. Francis*, 493 N.E.2d 372, 372-73 (Ill. App. Ct. 1986), Plaintiffs' action essentially inverts the common-law rule that Congress incorporated into the PLCAA. Again, Plaintiffs' complaint proves the point: Plaintiffs' seek to hold Smith & Wesson and the other industry-member defendants liable for downstream harm caused by "impulsive" and "delusion[al]" criminals who use firearms "to effectively execute their violent fantasies and undertake unlawful paramilitary, militia, or military activity." Compl. ¶89. By deploying a novel variant of "proximate cause" that is explicitly designed to facilitate the very thing the PLCAA forbids—i.e., holding industry members responsible for criminals' misuse of their products, and making them pay to redress criminals' misconduct—Plaintiffs' action again contravenes the PLCAA.

Ignoring all of that, the court below held that the relevant criminal misconduct was a foreseeable harm resulting from Smith & Wesson's marketing and thus does not serve to break the causal chain. *See* Op.7-12. But if a mass shooting perpetrated by a "delusional" criminal deviant is foreseeable harm resulting from an industry-member's marketing of lawful products to (lawful) "younger consumers" to encourage them to participate in (lawful) "hunting and target shooting" activities, *see* Compl. ¶83, or from truthful marketing regarding a firearm's "military roots," or cosmetic likeness, or its "masculin[e]" features, Compl. ¶61, then no firearm marketing is safe, and the PLCAA is meaningless. *Contra* Op.7-12. The decision below blessing Plaintiffs' lawsuit, which is based on that precise theory, cannot stand.

III. The Circuit Court's Decision Is Part And Parcel Of A Troubling Trend Of State Overreach, And Affirming It Would Have Profoundly Negative Consequences For The Firearms Industry And The People (And Rights) It Serves.

The importance of this case cannot be understated. In the decades since the PLCAA was enacted, the Supreme Court has repeatedly made clear that the Second Amendment protects an individual and fundamental right that applies both inside and outside the home. *See, e.g.*, *United States v. Rahimi*, 602 U.S. 680, 690 (2024);

Bruen, 597 U.S. at 17, 70-71; *McDonald v. Chicago*, 561 U.S. 742, 749-50, 778 (2010); *Heller*, 554 U.S. at 592. And in doing so, the Court has made clear that when a state seeks to restrict the exercise of Second Amendment rights, the state bears the burden of proving that its law is "consistent with this Nation's historical tradition" of regulating firearms. *Bruen*, 597 U.S. at 17-31; *see also Rahimi*, 602 U.S. at 691.

All of those cases should have prompted state legislatures to reconsider their laws to ensure that they are sufficiently protective of rights the Supreme Court has repeatedly reaffirmed are fundamental. And it should have prompted state courts that were once hostile to that fundamental right to reconsider their second-class approach to dealing with cases that implicate it. Unfortunately, the Supreme Court's recent cases have repeatedly prompted the opposite reaction in certain states. Almost immediately after *Bruen* was decided, some of the same very few states that had endeavored to prevent their law-abiding citizens from carrying firearms undertook efforts "to offset the impact of the court's decision." Giavanni Alves, *N.Y.'s New Gun Control Laws*, Staten Island Live (July 9, 2022), perma.cc/7AW5-JHJN. While some of those efforts are novel, others are re-runs. In particular, 10 states (including Illinois) have passed laws purporting to authorize civil suits against firearms manufacturers, distributors, and sellers based on harms caused by gun violence—in other words, purporting to authorize the very same suits that prompted Congress to pass the PLCAA almost 20 years ago. *See* 815 Ill. Comp. Stat. 505/2DDDD; Cal.

Civ. Code §3273.51; Colo. Rev. Stat. §6-27-104; 10 Del. Code §3930; Haw. Rev. Stat. §134-102; Md. Code Ann., Cts. & Jud. Proc. §3-2502; N.J. Stat. Ann. §2C:58-35; N.Y. Gen. Bus. Law §§898-b to -c; Wash. Rev. Code §7.48.330; Conn. Gen. Stat. §§52-571o to 52-571q (2026 supp.). And there is more to come. *See* Va. Sen. Bill No. 27 (forthcoming amendment to Va. Code Ann. §§59.1-148.5 to .7).

The advocates behind the suits brought before the PLCAA was passed—and those behind anti-PLCAA efforts today—have been consistently frank about their aims. Win or lose, they seek to "unleash the plaintiffs' lawyers and attorneys general against the gun industry" to "critically weaken" it. Ramsin Canon, *Instead of Criminalizing Individuals, Let's Take Down the Gun Industry*, Truthout (Aug. 9, 2019), perma.cc/UA5B-4ULR. To no surprise, that aim has paved the way for cases demanding that state courts flout Congress's clear command in the PLCAA. For example, multiple individuals have sued industry members for producing and/or distributing AR-15s that deranged criminals employed in despicable acts of violence, *see, e.g.*, *Parsons v. Colts Mfg. Co.*, 499 P.3d 602 (Nev. 2021) (en banc); Second Amended Complaint, *Goldstein v. Earnest*, No. 37-2020-00016638-CU-PO-CTL (Cal. Super. Ct. July 22, 2021).

States too have joined the effort. New Jersey and Maryland have brought suit against Glock, for instance, seeking to enjoin Glock from selling an entire line of popular pistols that are legal to market, sell, and buy because Glock is allegedly aware that some criminal third parties have illegally converted its lawful pistols into machineguns using an illegal machinegun conversion device, and then used those illegally modified arms to commit further criminal acts. *See* Complaint, *Mayor of Balt. v. Glock, Inc.*, No. C-24-CV-25-001450 (Md. Cir. Ct. Feb. 12, 2025); *Platkin v. Glock, Inc.*, No. ESX-C-000286-24 (N.J. Super. Ct. Ch. Div. Dec. 12, 2024). Notably, New Jersey did so even after its Attorney General secured vacatur of a preliminary injunction in and dismissal of a lawsuit brought by the NSSF challenging New Jersey's anti-PLCAA law by promising the Third Circuit that he would not "prosecut[e] [NSSF] or its members just for participating in 'lawful commerce,'" and would use New Jersey's law only to bring suits based on "industry members' 'own misconduct,'" not on the misconduct of third parties outside the control of NSSF or its members. *Nat'l Shooting Sports Found. v. Att'y Gen.*, 80 F.4th 215, 221 (3d Cir. 2023).

The cities of Rochester and Buffalo, respectively, have also brought suit under New York's anti-PLCAA law against the leading manufacturers of lawful handguns alleging, among other things, that they failed to implement sufficient controls on the distribution of their lawful products to prevent criminals from obtaining them illegally. *See* Verified Complaint, *City of Rochester v. Smith & Wesson Brands, Inc.*, 2022 WL 19770082 (N.Y. Sup. Ct. Dec. 21, 2022); Verified Complaint, *City of Buffalo v. Smith & Wesson Brands, Inc.*, 2022 WL 19770081 (N.Y. Sup. Ct. Dec. 20, 2022). And the City of Chicago has brought suit pursuant to FIRA against Glock alleging public nuisance for lawful commerce, on a theory similar to the one in the suit brought against Glock in New Jersey and Maryland. *See* Complaint, *City of Chicago v. Glock, Inc.*, No. 2024-CH-06875 (Ill. Cir. Ct. July 22, 2024).

Even foreign countries have tried their hand. For instance, Mexico sued several major U.S. firearm manufacturers on the theory that the lawful sale of lawful firearms in the United States has contributed to cartel violence south of the border in Mexico. *See Smith & Wesson*, 605 U.S. at 280. Thankfully, the Supreme Court rejected that effort and, in the process, clarified that the PLCAA bans lawsuits that "seek[] to recover from American firearms manufacturers for the downstream damage [criminals] wreak with their guns." *Id.* at 299. And while the Court acknowledged the presence of "the predicate exception, which allows some suits falling within PLCAA's general ban to proceed," it made clear that the predicate exception cannot be read to "swallow most of the rule." *Id.* "We doubt Congress intended to draft such a capacious way out of PLCAA, and in fact it did not." *Id.*

This Court should follow that clear instruction. While the Highland Park shooting was certainly a tragedy, there is no legal basis to tolerate the déjà vu wrought by the decision below. This Court should remind the lower courts that the Supremacy Clause has bite, and that the PLCAA cannot be so easily circumvented to undermine the fundamental rights that it was enacted to protect, and that the Supreme Court has recently and repeatedly afforded first-class status.

CONCLUSION

For the foregoing reasons, this Court should reverse.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the length and form requirements of Illinois Supreme Court Rule 341(a) & (b) and Rule 345 because it contains 31 pages and 7,667 words, excluding the parts of the brief exempted by Rule 341(b)(1).

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I hereby certify, pursuant to 735 ILCS 5/1-109 and under penalty of perjury, that on April 8, 2026, I electronically filed the foregoing with the Clerk of the Court for the Appellate Court of Illinois for the Second Judicial Circuit District and caused to be served upon the following persons, a copy of the proffered *amicus curiae* Brief of the National Association of Sporting Goods Wholesalers.

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SWORN STATEMENT

Under penalties as provided by law pursuant to 735 ILCS 5/1-109, the undersigned certifies that the statements in this instrument are true and correct.

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Dated: April 8, 2026

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No. 2-25-0274

APPELLATE COURT OF ILLINOIS
FOR THE SECOND JUDICIAL DISTRICT

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

Plaintiffs-Appellees

v.

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

Defendants-Appellants.

And

CYBEAR INTERACTIVE, LLC, ET AL.,

Respondents in Discovery.

On Appeal from the Circuit Court of the
Nineteenth Judicial Circuit Lake County, Illinois
No. 22 LA 00000487 (Judge Jorge L. Ortiz)

[PROPOSED] ORDER GRANTING LEAVE TO BRIEF AS *AMICUS CURIAE* TO NATIONAL ASSOCIATION OF SPORTING GOODS WHOLESALERS

The National Association of Sporting Goods Wholesalers has moved for leave to participate in this appeal as *amicus curiae* in support of Defendants-Appellants. This Court, having reviewed the motion and otherwise being fully advised, hereby GRANTS / DENIES the motion. Accordingly, it is hereby ORDERED that National Association of Sporting Goods Wholesalers may participate in this appeal as *amicus curiae*, and that the proffered brief attached to the motion is deemed filed *instanter*.

DATED: April _____, 2026. ENTER: ______________________________, J.

______________________________, J.

______________________________, J.

Appellate Court of Illinois for the Second Judicial District

Proposed order prepared by:

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