E-FILED
Transaction ID: 2-25-0274
File Date: 4/17/2026 1:45 PM
Jeffrey H. Kaplan, Clerk of the Court
APPELLATE COURT 2ND DISTRICT

No. 2-25-0274

IN THE
APPELLATE COURT OF ILLINOIS
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 friend of C.R. and L.R., Plaintiffs-Appellees, v. Smith & Wesson Brands, Inc., Smith & Wesson Sales Company, and Smith & Wesson, Inc., Defendants-Appellants, and Budsgunshop.com, LLC, Red Dot Arms, Inc., Robert Cremo, Jr., and Robert crime, III, Defendants.	On Appeal from the Circuit Court of Lake County, Illinois, County Department, Law Division No. 22 LA 00000487; Consolidated for Pretrial Purposes 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 The Honorable Judge Jorge L. Ortiz, Presiding

PLAINTIFFS' OPPOSITION TO SMITH & WESSON'S MOTION TO STAY DISCOVERY PENDING INTERLOCUTORY APPEAL

Plaintiffs-Appellees, who are 78 victims of the Highland Park mass shooting and their families, respectfully request that the Court deny Smith & Wesson's motion to stay discovery. Smith & Wesson has failed to meet its burden to show that the Court should deviate from Rule 308's default rule that trial court proceedings shall continue during interlocutory appeals. It waited to seek a stay of discovery in the trial court until almost ten months after it first moved for certification of issues under Illinois Supreme Court Rule 308 in April 2025. In that time, discovery has progressed, Smith & Wesson has made several document productions, and the parties have made significant progress towards reaching agreement on numerous discovery issues. Only after months of active discovery did Smith & Wesson decide that it urgently needed a discovery stay, which the circuit court denied because (1) the potentially dispositive nature of the appeal did not justify the stay, (2) the cases on which Smith & Wesson relied were inapposite, and (3) Plaintiffs would suffer "substantial burdens and prejudice" if this case were delayed any further. The circuit court further highlighted that Smith & Wesson had not identified a single case holding that discovery must be stayed where an appeal implicates purported immunity under the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §§ 7901-03 ("PLCAA"). Ex. 1, Tr. 55-56. Smith & Wesson then waited almost a month to make the same request in this Court, rendering hollow its claims of irreparable prejudice. Given this posture, Smith & Wesson attempts to manufacture a justification for a stay by misrepresenting the law, the facts, and the issues relevant to this appeal. Its motion should be denied.

First, Smith & Wesson's motion vastly overstates the scope of this appeal (as does its merits brief). The circuit court certified specific questions for interlocutory review under Rule 308, none of which involves the issues of proximate cause or standing, which Smith & Wesson nevertheless briefed. The adequacy of Plaintiffs' pleading that the Shooter was exposed to Smith & Wesson marketing—which, as the circuit court thoroughly reasoned, was more than sufficient—and Plaintiffs' proper objection to a premature contention interrogatory on that issue are therefore irrelevant to this appeal and do not bear at all on whether discovery should be stayed. Smith & Wesson's attempt to treat this appeal as a wholesale review of the circuit court's order denying its motion to dismiss is thus patently improper.

In doing so, Smith & Wesson conveniently ignores that Rule 308 establishes a default rule that an interlocutory appeal "shall not stay proceedings in the trial court." Ill. S. Ct. R. 308(f). Although Smith & Wesson attempts to characterize the Illinois Supreme Court's supervisory order as “extraordinary,” Mem. 3, this is in fact not an uncommon procedural path for such interlocutory appeals and does not overcome Rule 308’s presumption against a stay. Smith & Wesson’s efforts to overcome that default rule incorrectly assume that it will prevail on the merits before this Court and rely on a host of inapposite (and even misrepresented) cases.

Second, Smith & Wesson’s attempt to wish away the severe prejudice that a discovery stay would cause Plaintiffs is divorced from reality. Plaintiffs’ cases have been pending for three and a half years. In that time, Smith & Wesson has consistently sought to delay the case, most notably in protracted litigation attempting to remove the case to federal court on grounds that were so baseless that Plaintiffs were awarded attorney’s fees. *Roberts v. Smith & Wesson Brands, Inc*., No. 1:22-cv-06169, slip op. at 2 (N.D. Ill. Mar. 21, 2025). If discovery is stayed now, much of the progress that the parties have made will be lost, witnesses’ memories will fade, and, more fundamentally, the victims of the Highland Park shooting will be further denied even a hope of timely justice in their case.

Argument

Under Rule 308, a circuit court may certify questions for interlocutory appeal only when its underlying order “involves a question of law as to which there is substantial ground for difference of opinion and . . . an immediate appeal from the order may materially advance the ultimate termination of the litigation.” Ill. S. Ct. R. 308(a). The rule establishes a clear default: an order granting an application for leave to appeal “shall not stay proceedings in the trial court” unless the trial or appellate court determines that a stay is warranted. Ill. S. Ct. R. 308(f). In other words, even though Rule 308 appeals necessarily involve pure questions of law that may end the litigation, “[n]ormally the interlocutory appeal will not stay proceedings in the trial court.” Ill. S. Ct. R. 308, Committee Comments (revised 1979).

A court's decision to grant a stay is discretionary. *See Stacke v. Bates*, 138 Ill. 2d 295, 302 (1990). Although this Court exercises its own discretion in considering whether a stay is justified under Rule 308, *see* Ill. S. Ct. R. 308(f), trial courts in particular have "wide discretion" when a ruling involves "discovery matters," *Bankers Life & Cas. Co. v. Am. Senior Benefits LLC*, 2017 IL App (1st) 160687, ¶ 29; *Adkins Energy, LLC v. Delta T Corp.*, 347 Ill. App. 3d 373, 380-81 (2d Dist. 2004) (trial court has "great latitude in ruling on discovery matters," including a motion to stay). Further, "[a] party seeking a stay bears the burden of proving adequate justification for the stay." *Marzouki v. Najar-Marzouki*, 2014 IL App (1st) 132841, ¶ 17. If "there is even a fair possibility that the stay . . . will work damage" to the opposing party, the movant must establish "a clear case of hardship or inequity." *Id.* (citation omitted). Accordingly, in deciding whether to grant a stay, a court exercises its discretion by balancing the rights of the parties and considering all relevant circumstances bearing on the equitable nature of the relief. *See, e.g.*, *Stacke*, 138 Ill. 2d at 301-08.

I. The Court should follow the default rule that discovery proceeds during a Rule 308 appeal.

Smith & Wesson's assertion that its appeal is "potentially case-dispositive" does not justify a stay. Mem. 5. Despite Smith & Wesson's efforts to style this appeal as involving broad review of its motion to dismiss, *see id.* at 2, this is a limited, interlocutory appeal under Rule 308, *see In re Est. of Kleine*, 2015 IL App (2d) 150063, ¶¶ 11, 13 (explaining that Rule 308 appeals are "limited to the question certified by the trial court"). That is significant because this appeal's procedural posture weighs heavily against a stay. As the circuit court pointed out, "by definition[,] all appeals under Rule 308 involve important questions of law which may terminate the litigation, including immunity, [b]ut the presumption is that discovery proceeds." Ex. 1, Tr. 54-55. Smith & Wesson's purported reasons to abandon this default rule here all fall flat.

To start, Smith & Wesson wrongly assumes that it will prevail on appeal. But the fact that the Supreme Court directed this Court to allow the appeal does not signify that this Court will rule in Smith & Wesson's favor on any of the certified questions. *See People v. Davis*, 403 Ill. App. 3d 461, 467 (1st Dist. 2010) (noting that "the granting of leave to appeal . . . does not necessarily call into question a decision"). Indeed, it is not unusual for the Supreme Court to direct the appellate court to allow appeals under Rule 308, and then—after the appellate court upholds the circuit court's ruling—either affirm or decline to review the appellate decision.[1]

That this appeal involves questions of whether PLCAA precludes Plaintiffs' claims also does not merit a stay. *See* Mem. 1, 3. When enacting PLCAA, Congress chose not to include a provision that stays discovery while courts consider whether the statute bars certain actions—even though it has included such provisions in other federal statutes. *See* 18 U.S.C. § 3626(e)(2)(A)(i) (Prison Litigation Reform Act); 15 U.S.C. § 77z-1(b) (Private Securities Litigation Reform Act); *see also City of New York v. Beretta U.S.A. Corp.*, 401 F. Supp. 2d 244, 297-98 (E.D.N.Y. 2005) (finding Congress's "silence" in PLCAA regarding stays to be "significant" and explaining that PLCAA does not "protect defendants from actions that *might turn out* to be qualified civil liability actions"), *rev'd in part on other grounds*, 524 F.3d 384 (2d Cir. 2008).[2] Instead, Congress left this

---

[1] *See, e.g.*, *Sproull v. State Farm Fire & Cas. Co.*, 2021 IL 126446, ¶¶ 14, 55 (directing appellate court to allow Rule 308 appeal and affirming appellate court's judgment that upheld circuit court decision); *State ex rel. Levenstein v. Salafsky*, 196 Ill. 2d 564, 564 (2001) (directing this Court to grant Rule 308 application for leave to appeal), *remanded to People ex rel. Levenstein v. Salafsky*, 338 Ill. App. 3d 936, 937-38 (2d. Dist. 2003) (on remand, agreeing with circuit court on answers to certified questions), *appeal denied*, 205 Ill. 2d 647 (2003).

[2] The trial court in *Beretta* did stay further proceedings pending appeal but did so because the appeal presented "an issue of first impression" regarding the recently enacted PLCAA. 401 F.

discretionary decision for courts to resolve on a case-by-case basis, as they routinely do. It is thus unsurprising that, as the circuit court noted, Smith & Wesson has "not come forward with any cases saying that stays of discovery are required when an appeal challenging the denial of PLCAA immunity is pending." Ex. 1, Tr. 55.

Further, even assuming that the application of PLCAA raises questions of "immunity," there is no specific statute, court rule, or decision that requires discovery to be stayed when dispositive questions of immunity are under interlocutory appellate review. And Smith & Wesson's cited cases do not say otherwise. As Plaintiffs already pointed out in the circuit court, Smith & Wesson fundamentally misrepresents *Plock v. Board of Education of Freeport School District No. 145*, 396 Ill. App. 3d 960 (2d Dist. 2009). *See* Mem. 3. There, this Court reviewed whether the Illinois Eavesdropping Act applied to the plaintiffs' claims. *Plock*, 396 Ill. App. 3d at 962. *Plock* did not consider any questions of immunity, let alone suggest that "immunity becomes illusory" absent a stay, as Smith & Wesson asserts. Mem. 1. Rather, it discussed discovery in a narrow, distinct context, holding that the circuit court did not abuse its discretion in denying a defendant's discovery request where there were no facts in dispute and where the defendant itself had moved for judgment on the pleadings. *Plock*, 396 Ill. App. 3d at 970-71. In doing so, *Plock* merely recited the standard for a judgment on the pleadings, which is that a judgment may be proper "when the outcome of the case rests on the court's interpretation of law," *id.* at 970—language that Smith & Wesson quotes entirely out of context, *see* Mem. 3. *Plock* said nothing about stays of discovery—let alone whether discovery should be stayed pending interlocutory review of one party's assertion that it has immunity.

Supp. 2d at 298. Moreover, the court was not staying discovery, which was already complete. *See id.* at 251.

As the circuit court reasoned, most of Smith & Wesson's other citations are "inapposite" because they involve "absolute or qualified immunity provided to government officials." Ex. 1, Tr. 55. Those cases arose in a materially different context, where denials of governmental immunity defenses are treated as final decisions, not interlocutory orders, for purposes of appeal. *See Harlow v. Fitzgerald*, 457 U.S. 800, 806 n.11 (1982) (citing *Nixon v. Fitzgerald*, 457 U.S. 731, 742 (1982) (explaining collateral-order doctrine)). That reflects the unique purpose of governmental immunity doctrines to shield public officials from the burdens of litigation (including discovery), which are "peculiarly disruptive of effective government." *Id*. at 817-18. Courts have therefore consistently rejected the application of these doctrines to private parties. *See, e.g.*, *Richardson v. McKnight*, 521 U.S. 399, 409-12 (1997) (explaining why qualified immunity was inapplicable to private prison officials); *Wyatt v. Cole*, 504 U.S. 158, 168 (1992) (recognizing that "rationales" behind qualified immunity for government officials are "not transferable to private parties"). They have done so even when defendants seek interlocutory review regarding PLCAA. *See Beretta*, 401 F. Supp. 2d at 298 ("Defendants are not government officials, and they cite no authority for the proposition that private parties should receive the same immunity benefits as government officials."). Here, too, the governmental immunity cases that Smith & Wesson cites are inapplicable.[3]

The remaining decisions in Smith & Wesson's motion are distinguishable because they were issued on appeal from dispositive rulings, such as a grant of summary judgment or dismissal. In those cases, extensive discovery had already occurred or the litigation had already been resolved at the trial-court level. *See Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 260

---

[3] *See, e.g.*, Mem. 2-3 (citing *Pearson v. Callahan*, 555 U.S. 223 (2009); *Saucier v. Katz*, 533 U.S. 194 (2001); *Siegert v. Gilley*, 500 U.S. 226 (1991); *Hunter v. Bryant*, 502 U.S. 224 (1991); *Harlow*, 457 U.S. 800).

(4th Cir. 2009) (stay of discovery was not at issue where trial court had properly dismissed complaint); *Fair Housing Council of San Fernando Valley v. Roommates.Com, LLC*, 521 F.3d 1157, 1161 n.1 (9th Cir. 2008) (en banc) (same, in appeal from grant of summary judgment). Those cases offer no guidance for situations like this one, where the proceedings below remain live and discovery is incomplete.

In short, Smith & Wesson fails to justify departing from Rule 308's default rule favoring the continuation of circuit court proceedings.

II. If discovery is stayed, Plaintiffs will experience undue prejudice that outweighs any burden on Smith & Wesson.

Smith & Wesson significantly overstates the burden of proceeding with discovery—an argument that is curious given its delay in seeking a stay—and makes claims about burdens of third-party discovery that it has no standing to make. Although undoubtedly discovery requires significant resources, the resources that Smith & Wesson must expend do not compare to the prejudice that Plaintiffs will experience if discovery is stayed pending this appeal.

Smith & Wesson's conduct undermines its claims of burden. Smith & Wesson first sought the stay that they now claim to need so urgently in February 2026, nearly ten months after it moved to certify questions for appeal under Rule 308. During that time, discovery has progressed significantly. Further, although Smith & Wesson could have sought a stay in this Court immediately after the circuit court denied its request for a stay on March 12,[4] it waited close to a month before filing this motion. In other words, having allowed discovery to proceed, Smith & Wesson cannot now plausibly claim that continued discovery imposes a unique or prejudicial burden sufficient to warrant a stay. Smith & Wesson's months-long "delay in . . . seeking a stay

---

[4] The oral ruling was made on March 12, 2026, Ex. 1, Tr. 57, and the parties' proposed order reflecting the same was entered on March 19, 2026.

vitiates much of the force of [its] allegations of irreparable harm." *Beame v. Friends of the Earth*, 434 U.S. 1310, 1313 (1977) (Marshall, J., in chambers).

In the time since Smith & Wesson first sought Rule 308 review in April 2025, Plaintiffs have diligently pursued discovery and the parties have made significant progress, both with Smith & Wesson and third parties. Plaintiffs have been meeting with Smith & Wesson and are in the process of working through numerous discovery issues. In many instances, Plaintiffs have agreed to narrow discovery requests or search parameters to ensure that the overall scope of discovery is reasonable. And as Plaintiffs have learned more, they have asked for more discovery on certain relevant topics—which is not a case of discovery "metastasiz[ing]," Mem. 4, but simply the typical cadence of complex litigation.[5] Moreover, Plaintiffs have also begun receiving productions from some of the approximately one dozen third-party subpoenas[6] they issued (not "a multitude," as Smith & Wesson exaggerates, Mem. 5), including critical documents from law enforcement agencies.

A stay would undo this progress and result in inefficiency, duplication of effort, and further delay when discovery resumes. Recognizing that, the circuit court denied a stay in part because of the "substantial burdens and prejudice" that would result "if discovery were halted at this juncture." Ex. 1, Tr. 56. The circuit court has been closely supervising these 25 cases for two years

[5] Smith & Wesson has selectively identified portions of Plaintiffs' discovery requests in a way that deprives them of important context. To name just one example, Smith & Wesson accuses Plaintiffs of asking for "documents related to Smith & Wesson's stock price." Mem. 5. What Plaintiffs *actually* requested—and what Smith & Wesson has thus far refused to produce—are documents (1) connecting Smith & Wesson's financial metrics (including stock price) with certain specific events such as elections and high-profile mass shootings, which would demonstrate that Smith & Wesson's profits increase when mass shootings occur; and (2) specifically reflecting related "surges" in firearms sales or stock prices. Ex. 2, RFP No. 43-44.

[6] This number does not include subpoenas issued to hospitals for Plaintiffs' own medical records, which are necessary to comply with Plaintiffs' own discovery obligations.

and is therefore well-positioned to make such fact-findings concerning prejudice and exercise its "wide discretion in ruling on discovery matters." *Bankers*, 2017 IL App (1st) 160687, ¶ 29; *see Selby v. O'Dea*, 2017 IL App (1st) 151572, ¶ 115 (regarding a confidentiality order, noting that "[s]imilar to other discovery matters, the trial court is in the best position to weigh the competing needs and interests of the parties"). Further, Plaintiffs have been seeking redress for their traumatic injuries for three and a half years, and some Plaintiffs and their next of kin are reaching advanced age as this litigation drags on. Forcing Plaintiffs to wait until this Court rules on the appeal—and until the losing party undoubtedly seeks Illinois Supreme Court review—would inflict additional harm after Smith & Wesson has successfully and repeatedly delayed being held accountable for its conduct.

Smith & Wesson's attempt to minimize the irreparable prejudice to Plaintiffs from a discovery stay ignores the reality of litigation. It baldly claims that there is "no risk that evidence or witnesses will become unavailable" if discovery is stayed pending appeal. Mem. 3. But what Smith & Wesson fails to acknowledge is that the appeal process in this Court could take a year or more, and a further appeal to the Illinois Supreme Court could add another year. As time passes, memories fade, key witnesses may leave Smith & Wesson for other jobs, and other events create further obstacles to Plaintiffs obtaining discovery to which they are entitled. *See Kove IO, Inc. v. Amazon Web Servs., Inc.,* No. 18 C 8175, 2022 WL 683666, at *3 (N.D. Ill. Mar. 8, 2022) (noting the "possibility that a stay could compound the problems of stale evidence, faded memories, and lost documents" (citation omitted)). It also unjustifiably delays justice for the victims of the Highland Park mass shooting.

Smith & Wesson's attempt to blame any delay on Plaintiffs for raising complex issues in their pleadings is specious. Mem. 3. Plaintiffs are painfully aware that litigation takes time, as evidenced by the 18 months in which Smith & Wesson delayed the cases with its frivolous attempt to remove them to federal court and the ten months during which discovery has been ongoing. But what is at issue here is Smith & Wesson's unjustified attempt to stop that progress in its tracks. Smith & Wesson's assertion that a "denial of a stay requires more," *id.*, than the significant prejudice resulting from any further delay further ignores that the burden is on *Smith & Wesson* to justify deviating from Rule 308(f)'s default rule that discovery shall proceed during an interlocutory appeal, not the other way around. *See supra* p. 4; *Kaden v. Pucinski*, 263 Ill. App. 3d 611, 615 (1st Dist. 1994) ("[T]he party seeking a stay bears the burden of proving adequate justification for it."). The Court should therefore deny Smith & Wesson's motion in its entirety.

In the alternative, if the Court is inclined to issue a stay of any kind (which it should not), that stay should be limited to discovery involving Smith & Wesson.[7] Defendant Bud's Gun Shop, which faces different claims—including negligent entrustment claims that are wholly outside the scope of this interlocutory appeal—has not moved for a stay before this Court in its appeal from the same proceedings, Case No. 2-25-0275, and no third party has moved to quash the subpoenas issued to them. Smith & Wesson is therefore the only party seeking relief before this Court.

[7] Indeed, before the circuit court, Smith & Wesson admitted that it "makes sense" to allow discovery to proceed against third parties, "particularly as it addresses law enforcement and governmental entities." Ex. 1, Tr. 22.

CONCLUSION

Accordingly, Plaintiffs request that this Court deny Smith & Wesson's motion to stay discovery.

Respectfully submitted,

/s/ Priyanka Gupta Sen

ROMANUCCI & BLANDIN, LLC
Antonio M. Romanucci (ARDC No. 6190290)
Gina A. DeBoni (ARDC No. 6277054)
Michael E. Holden (ARDC No. 6296752)
Joshua M. Levin (ARDC No. 6320993)
321 North Clark Street, Suite 900
Chicago, Illinois 60654
Phone: (312) 458-1000
aromanucci@rblaw.net
gad@rblaw.net
mholden@rblaw.net
jlevin@rblaw.net

EVERYTOWN LAW
Priyanka Gupta Sen (ARDC No. 6320720)
Lise Rahdert (ARDC No. 6352084)
450 Lexington Ave., P.O. Box 4184
New York, NY 10163
Phone: (646) 824-8179
psen@everytown.org
lrahdert@everytown.org

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
H. Christopher Boehning (ARDC No. 6337947)
1285 Avenue of the Americas
New York, NY 10019
Phone: (212) 373-3700
cboehning@paulweiss.com

Attorneys for Plaintiffs Roberts (22 LA 487), Sundheim (22 LA 488), Straus (22 LA 489), Rebollar-Sedano (22 LA 490), Bennett (22 LA 491), Rodriguez (22 LA 492), Tenorio (22 LA 493), Vergara (22 LA 494), Toledo (22 LA 495), Zeifert (22 LA 496), Aguilar (24 LA 475), Castellanos (24 LA 476), Castillo (24 LA 477), Gutman (24 LA 478), Medina (24 LA 479) & Ring (24 LA 480)

EDELSON PC
Ari Scharg
350 North LaSalle Street, 14th Floor
Chicago, Illinois 60654
Phone: (312) 589-6370
ascharg@edelson.com

DENTONS US LLP
Donna J. Vobornik
Brian E. Cohen
Lyndsey M. Wajert
233 South Wacker Drive, Suite 5900
Chicago, Illinois 60606
Phone: (312) 876-7370
donna.vobornik@dentons.com
brian.cohen@dentons.com
lyndsey.wajert@dentons.com

Attorneys for Plaintiffs Turnipseed (22 LA 497), Chupack (22 LA 532) & Goldstein (24 LA 474)

KOSKOFF KOSKOFF & BIEDER, P.C.
Josh D. Koskoff (ARDC No. 6348134)
Alinor C. Sterling (ARDC No. 6348135)
Skylar Albertson (ARDC No. 6345115)
350 Fairfield Avenue
Bridgeport, Connecticut 06604
Phone: (203) 336-4421
Fax: (203) 368-3244
jkoskoff@koskoff.com
asterling@koskoff.com
salbertson@koskoff.com
Attorney for Plaintiffs Uvaldo et al. (24 LA 471)

RAPOPORT SIMS PERRY & VANOVERLOOP, P.C.
Matthew S. Sims (ARDC No. 6300879)
20 North Clark Street, Suite 3500
Chicago, Illinois 60602
Phone: (312) 327-9880
Fax: (312) 327-9881
msims@rapoportlaw.com

COPLAN & CRANE, LTD
Benjamin A. Crane
Nicolas J. Selvaggio
1111 Westgate Street
Oak Park, Illinois
Phone: (708) 358-8080
Fax: (708) 358-8181
bcrane@coplancrane.com
nselvaggio@coplancrane.com
il.court@coplancrane.com
Attorneys for Plaintiff Jaffe (24 LA 481)

LEVIN & PERCONTI
Michael F. Bonamarte (ARDC No. 6285779)
Isabela Bacidore (ARDC No. 6335524)
325 North LaSalle Street, Suite 300
Chicago, IL 60654
Phone: (312) 332-2872
Fax: (312) 332-3112
mfb@levinperconti.com
irb@levinperconti.com
Attorneys for Plaintiffs Joyce (24 LA 201), Z. Kolpack (24 LA 203) & S. Kolpack (24 LA 206)

SALVI, SCHOSTOK & PRITCHARD, P.C.
Lance D. Northcutt (ARDC No. 6278144)
Tara R. Devine (ARDC No. 6280880)
Eirene N. Salvi (ARDC No. 6321198)
Emily T. Art (ARDC No. 6345559)
Kristen M. Stoicescu (ARDC No. 6336817)
161 North Clark Street, Suite 4700
Chicago, Illinois 60601
Phone: (312) 372-1227
Fax: (312) 372-3720
lnorthcutt@salvilaw.com
tdevine@salvilaw.com
esalvi@salvilaw.com
eart@salvilaw.com
kstoicescu@salvilaw.com
Attorneys for Plaintiff McCarthy (24 LA 466)

Exhibit 1

Excerpt of Transcript for March 12, 2026 Hearing

STATE OF ILLINOIS)
) SS:
COUNTY OF L A K E)

IN THE CIRCUIT COURT OF THE 19TH 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.,	)	
Plaintiffs,	)	
vs.	)	No. 22 LA 487
SMITH & WESSON BRANDS, et al.,	)	
Defendants.	)	

Transcript of proceedings at the hearing of the above-entitled cause before the Honorable Jorge Ortiz, Judge of said Court, on the 12th day of March, 2026, at the hour of 9:30 a.m.

(Proceedings concluded at 10:45 a.m.)

REPORTED BY ELVIRA M. MOLNAR
CERTIFIED SHORTHAND REPORTER LICENSE NO. 84-3309

Pages 2-21 Excluded

THE COURT: Thank you.

Just one moment.

Okay. Mr. Schmetterer, are you arguing first?

MR. SCHMETTERER: Yes, Your Honor. Ken Schmetterer on behalf of Smith & Wesson.

Your Honor, first an update on the appeal. The mandate has issued, briefing is under way. Briefing is scheduled to be completed by May 28th. That's about ten weeks from today.

We appreciate plaintiffs' alternative proposal that they put forth in their opposition papers to stay party discovery and allow third-party discovery to proceed. We think that a part of that makes sense, particularly as it addresses law enforcement and governmental entities.

After all, they have -- and we cited statutory, they have public disclosure obligations, transparency obligations, that private parties don't have. And we think that makes sense. That's also been the subject of considerable litigation, and that production is under way. We are not looking to stop that.

Pages 23-53 Excluded

different in Texas in that they at the time they didn't have a traditional motion to dismiss. They now have a Rule 91(a), but that is a recent picture in Texas law. So that explains why it was done during the discovery process. And the Courts still stayed the mandamus, still stayed remainder of any discovery, while they considered the denial of that motion for summary judgement.

THE COURT: Well, the Court is certainly cognizant of the fact that these cases pose some novel questions and issues and obviously Supreme Court Rule 308 provides that certified questions of law that may materially advance the ultimate termination of the litigation -- actually that the certified questions must be questions of law that may materially advance the ultimate termination of the litigation.

And Rule 308(f) states that the application for permission to appeal or the granting thereof shall not stay the proceedings in the Trial Court, unless the Trial Court or the Appellate Court or a judge thereof shall so order.

And by definition all appeals under Rule 308 involve important questions of law which may terminate the litigation, including immunity. But the presumption is that discovery proceeds.

And Buds has cited Rule 201(c)(1). You didn't address it in your argument, but it was cited. This rule does not pertain to stays pending appeal. Rather the rule is included under civil proceedings, and the Trial Court is meant to prevent abuse of discovery when the proceedings are still in the Trial Court.

The defendants have not come forward with any cases saying that stays of discovery are required when an appeal challenging the denial of PLCAA immunity is pending. The cases cited by the defendants are inapposite to the current matter for reasons including that some of the cases involve absolute or qualified immunity provided to government officials and rest on the nature of governmental immunity doctrines which are designed to shield public officials from the burdens of litigation including discovery.

Some of the cases denying certain immunity defenses were treated as final decisions, as you know, and not interlocutory orders, and which place those cases in a different procedural posture than the current matter. Particularly the Beretta case, which did grant a temporary discretionary state pending appeal, it recognized that immunity-based stay precedents are procedurally inapposite where private defendants seek to halt discovery during an interlocutory appeal.

And in Beretta it's important to know that although a stay was granted, it was a stay only as to case management decisions, and full discovery had already been completed.

The Court is not unmindful of the fact that there would be some burdens imposed upon the defendants by permitting discovery to continue, but the Court is also mindful of the substantial burdens and prejudice that could be visited upon all of these plaintiffs if discovery were halted at this juncture and that they would suffer prejudice if this case grounds to a halt and all discovery were stayed pending appeal.

Also, we have the matter of the negligent entrustment claims, and discovery would not be stayed as to those claims. So it doesn't make sense to stay discovery as to some of the claims and not as to the other claims.

Also, of course, at issue here is the fact that the appeals process is expedited. The Court is hopeful that there will be an expeditious resolution at the Appellate level, as well as at the Supreme Court level, should these matters proceed there.

And the Court is grateful with respect to how counsel are cooperating, meeting and conferring on a regular basis in an effort to resolve any disagreements concerning discovery. The Court is grateful for the regular status reports that it is provided. And the Court is hopeful that everyone will continue to work as cooperatively as possible. And the Court is grateful for the very high level of professionalism that counsel demonstrate throughout these proceedings.

The Court is, however, going to deny the motions for stay pending appeal, and we will continue to move forward. And that said, the (f)(1) and (f)(2) disclosure deadlines, as we know, have been extended till the end of June. We need to start thinking about (f)(3)s, as well, right?

MS. LAGROTTERIA: Correct, Your Honor. And

Pages 58-67 Excluded

STATE OF ILLINOIS)
) SS:
COUNTY OF L A K E)

Elvira M. Molnar, being first duly sworn on oath, says that she is a Certified Shorthand Reporter doing business in the State of Illinois;

That she reported in shorthand the proceedings given at the taking of said hearing;

That the foregoing is a true and correct transcript of her shorthand notes so taken as aforesaid and contains all the proceedings given at said hearing.

IN TESTIMONY WHEREOF: I hereunto set my verified digital signature this 17th day of March, 2026.

Elvira M. Molnar, CSR
Lic. No. 084-003309

Exhibit 2

Smith & Wesson's Objection and Answers to Plaintiffs' Second Set of Requests for Production

IN THE CIRCUIT COURT OF LAKE COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

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., SMITH & WESSON SALES COMPANY, SMITH & WESSON, INC., BUDSGUNSHOP.COM, LLC, RED DOT ARMS, INC., ROBERT CRIMO, JR., and ROBERT CRIMO, III, Defendants.	No.: 22-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

OBJECTIONS AND ANSWERS TO PLAINTIFFS' SECOND SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO SMITH & WESSON BRANDS, INC., SMITH & WESSON SALES COMPANY, AND SMITH & WESSON, INC.

Defendants Smith & Wesson Brands, Inc. (f/k/a American Outdoor Brands Corporation), Smith & Wesson Sales Company, and Smith & Wesson, Inc. (collectively, "Smith & Wesson"), by their undersigned counsel and pursuant to Illinois Supreme Court Rules 201 and 214, hereby respond as follows to Plaintiffs' Second Set of Requests for Production of Documents (the "Requests," and each specific request therein, a "Request").

GENERAL OBJECTIONS AND RESPONSES

1. Smith & Wesson objects to the "Definitions" and "Instructions" in the Requests to the extent they purport to impose obligations beyond those required by the Illinois Supreme Court

Pages 2-36 Excluded

"assessment," "effectiveness," "awareness," "attitude studies," without regard to limitations that may be related to alleged shooter or shooting at issue in this case. Smith & Wesson objects to Request No. 42 to the extent it seeks documents protected by the attorney-client privileged and the attorney work product doctrine.

Subject to and without waiving its objections, Smith & Wesson will produce non-privileged documents, if any exist, regarding review, analysis, and strategy of its marketing and advertising in Illinois between January 1, 2014, and July 4, 2023 of Smith & Wesson's M&P 15 Sport II Modern Sporting Rifle and other Modern Sporting Rifles manufactured for the civilian market.

> **<u>REQUEST No. 43:</u>** All Documents concerning any relationship between (1) Your stock price, volume of firearm sales, revenue, and/or profit; and (2) specific events, such as mass shootings and other incidents involving gun violence or elections and other political events. This Request seeks Documents created between January 1, 2010, and July 4, 2022.

<u>RESPONSE:</u> Smith & Wesson incorporates its General Objections, Objections to Definitions, and objections and responses to Plaintiffs' First Set of Requests as if fully stated herein. Smith & Wesson further objects to Request No. 43 because it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Smith & Wesson also objects to Request No. 43 on the grounds that it is overbroad, unduly burdensome, and disproportionate to the needs of the case in that it seeks "All" documents concerning "any" relationship between various subcategories dating back to January 1, 2010, without regard to limitations that may be related to alleged shooter or shooting at issue in this case. Smith & Wesson objects to Request No. 43 based on the time period dating back to January 1, 2010 on the grounds that it is overbroad and unduly burdensome and disproportionate to the needs of the case by requesting information that is neither relevant to the claims or defenses of any party to the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Smith & Wesson objects to Request No. 43 as vague and overbroad by use of the terms "relationship," "Your," "specific events," "other incidents," and "other political events." Smith & Wesson objects to Request No. 43 to the extent it seeks documents protected by the attorney-client privileged and the attorney work product doctrine.

> **<u>REQUEST No. 44:</u>** All Documents referring to a "surge" or "surges" in the stock price, volume of firearm sales, revenue, and/or profit of Smith & Wesson or of other manufacturers and/or sellers of firearms. This Request seeks Documents created between January 1, 2010, and July 4, 2022.

<u>RESPONSE:</u> Smith & Wesson incorporates its General Objections, Objections to Definitions, and objections and responses to Plaintiffs' First Set of Requests as if fully stated herein. Smith & Wesson further objects to Request No. 44 because it seeks documents that are neither relevant to the subject matter of the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Smith & Wesson also objects to Request No. 44 on the grounds that it is overbroad, unduly burdensome, and disproportionate to the needs of the case in that it seeks "All" documents "referring" to a "surge" in stock price, volume of firearm sales, revenue, and/or profit, without regard to limitations that may be related to alleged shooter or shooting at issue in this case. Smith & Wesson objects to Request No. 44 based on the time period dating back to January 1, 2010 on the grounds that it is overbroad and unduly burdensome and disproportionate to the needs of the case by requesting information that is neither relevant to the claims or defenses of any party to the pending action nor reasonably calculated to lead to the discovery of admissible evidence. Smith & Wesson objects to Request No. 44 to the extent it seeks documents protected by the attorney-client privileged and the attorney work product doctrine.

> **<u>REQUEST No. 45:</u>** To the extent not already requested in the previous Requests, all Documents concerning any Marketing Campaign for M&P Assault Rifles.

<u>RESPONSE:</u> Smith & Wesson incorporates its General Objections, Objections to Definitions, and objections and responses to Plaintiffs' First Set of Requests as if fully stated

Page 39 Excluded

Dated: December 15, 2025

Respectfully Submitted,

/s/ Kenneth L. Schmetterer

James Vogts (ARDC6188442)
Andrew Lothson (ARDC 6297061)
Brett Henne (ARDC 6276545)
Swanson, Martin & Bell, LLP
330 North Wabash, Suite 3300
Chicago, IL 60611
T (312) 222-8517
T (312) 923-8274
T (847) 949-0057
E jvogts@smbtrials.com
E alothson@smbtrials.com
E bhenne@smbtrials.com

Edward S. Scheideman
DLA Piper LLP (US)
500 Eighth Street, NW
Washington, DC 20004
T (202) 799-4534
F (202) 799-5000
E edward.scheidemann@us.dlapiper.com

Kenneth L. Schmetterer (ARDC 6201860)
Nathan Carpenter (ARDC 6341076)
DLA Piper LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606
T (312) 368-2176/2173
F (312) 630-6350
E kenneth.schmetterer@us.dlapiper.com
E Nathan.carpenter@us.dlapiper.com

Attorneys for Smith & Wesson Brands, Inc.,
Smith & Wesson Sales Company,
and Smith & Wesson, Inc.

2-25-0274

E-FILED
Transaction ID: 2-25-0274
File Date: 4/17/2026 1:45 PM

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

CERTIFICATE OF FILING AND SERVICE

I hereby certify under penalties provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure (735 ILCS 5/1-109) that I caused copies of the foregoing **Plaintiffs' Opposition to Motion to Stay Discovery Pending Interlocutory Appeal** to be served electronically via Odyssey eFileIL upon counsel of record for Smith & Wesson Defendants-Appellants and their proposed amici, as listed below.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct.

/s/ Priyanka Gupta Sen
Priyanka Gupta Sen

Kenneth L. Schmetterer
Nathan Carpenter
Edward S. Scheideman
DLA Piper LLP (US)
kenneth.schmetterer@us.dlapiper.com
nathan.carpenter@us.dlapiper.com
Edward.scheidemann@us.dlapiper.com

C. Nicholas Cronauer
Cronauer Law
nc@cronauerlaw.com

Richard J. Leamy Jr.
rjleamy@wmlaw.com

James Vogts
Andrew Lothson
Brett Henne
Swanson, Martin & Bell, LLP
jvogts@smbtrials.com
alothson@smbtrials.com
bhenne@smbtrials.com

Erin E. Murphy
Clement & Murphy, PPLC
erin.murphy@clementmurphy.com