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

Case No. 2-25-0274

IN THE APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

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

Plaintiffs-Appellees,

v.

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

Defendants-Appellants,

and,

CYBEAR INTERACTIVE, LLC, et al.,

Respondents in Discovery.

Appeal from the Circuit Court of Lake County, Illinois, Law Division

Trial Court No.: 2022 LA 00000487; Consolidated for Pretrial Purposes with Case Nos.

22 LA 00000488, 22 LA 00000489, 22 LA 00000490, 22 LA00000491, 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

Trial Judge: Honorable Jorge L. Ortiz

MOTION OF REPRESENTATIVE JENNIFER GONG-GERSHOWITZ ET AL. FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS-APPELLEES

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Illinois Representatives Jennifer Gong-Gershowitz, Bob Morgan, Kam Buckner, and Maura Hirschauer, pursuant to Rules 345 and 361 of the Illinois Supreme Court, respectfully move this Court for leave to file the accompanying brief as *amici curiae* in support of plaintiffs-appellees, and particularly in support of the constitutionality of the Illinois Firearms Industry Responsibility Act ("FIRA").

Resolution of this appeal requires this Court to decide whether FIRA is (1) declarative of existing Illinois statutory law on consumer protection as already applicable to the firearm industry, (2) within the predicate exception of the Protection of Lawful Commerce in Arms Act, 15 U.S.C. § 7901 *et seq*. ("PLCAA"), and (3) not impermissibly vague.

As the legislators who crafted FIRA and shepherded the bill through passage, *amici* can provide a unique and important perspective on these key questions of statutory interpretation and intent relevant to these questions. *Amici* have personal knowledge of the legislative history behind FIRA, and the Illinois lawmakers' intent in enacting the statute. The Illinois General Assembly enacted FIRA to confirm that under Illinois law, courts can and will hold gun manufacturers like Smith & Wesson accountable for the harm caused by the unfair and deceptive techniques and strategies they use to market dangerous weaponry like the M&P15, which was used to kill 7 people and injure 48 more in Highland Park on July 4, 2022. Given that both the intended operational effect and the constitutionality of FIRA are at issue in this appeal, *amici* have an interest in ensuring that the General Assembly's actions and intention in passing FIRA are accurately represented.

*   *   *

For the reasons above, the proposed *amici* respectfully request leave to file the attached brief. A copy of the proposed brief and a proposed order are attached.

Dated: June 18, 2026

Respectfully submitted,

PERKINS COIE LLP

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[PROPOSED] ORDER

Upon motion of Representative Jennifer Gong-Gershowitz et al. to file a brief of *amici curiae* in support of Plaintiffs-Appellees, the Court being advised of the reasons in support,

IT IS HEREBY ORDERED that leave to Representative Jennifer Gong-Gershowitz et al. to file their brief *amici curiae* is GRANTED/DENIED.

Dated:______________________________

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Case No. 2-25-0274

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KEELY ROBERTS, individually and as parent and next friend of C.R. and L.R, and JASON ROBERTS, Plaintiffs-Appellees, v. SMITH & WESSON BRANDS, INC., et al., Defendants-Appellants, and, CYBEAR INTERACTIVE, LLC, et al., Respondents in Discovery.	))))))))))))	Appeal from the Circuit Court of Lake County, Illinois, Law Division Trial Court No.: 2022 LA 00000487; Consolidated for Pretrial Purposes with Case Nos. 22 LA 00000488, 22 LA 00000489, 22 LA 00000490, 22 LA00000491, 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 Trial Judge: Honorable Jorge L. Ortiz

BRIEF OF *AMICI CURIAE* REPRESENTATIVE JENNIFER GONG-GERSHOWITZ ET AL. IN SUPPORT OF PLAINTIFFS-APPELLEES

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TABLE OF POINTS AND AUTHORITIES

Introduction

Amici are members of the Illinois General Assembly who were behind the legislative effort that led to the passage of the Illinois Firearms Industry Responsibility Act ("FIRA") in 2023. The Illinois General Assembly enacted FIRA in the wake of the Highland Park tragedy for a clear purpose: to confirm that the gun industry, just like every other industry that does business in Illinois and is covered by Illinois's consumer protection statutes, can and will be held accountable for the harmful effects of its unfair and deceptive marketing campaigns. FIRA and the mandates of the Illinois consumer protection law that it clarifies become particularly urgent in cases such as this one, where Defendant Smith & Wesson's unfair and deceptive marketing tactics for the M&P15 Sport II assault rifle ("M&P15") targeted young men, including Defendant Robert Crimo III, with misleading advertisements about the weapon's associations with the police and military. *Amici* urge this Court to affirm the trial court's decision and make clear that when marketing tactics like Smith & Wesson's contribute to tragedies such as the July 4, 2022 mass shooting in Highland Park, they will be held accountable under Illinois law.

Amici submit this brief to address Smith & Wesson's flawed arguments about the constitutionality and intended operative effect of FIRA, which are contrary to the explicit language, structure, and legislative history of the bill.

Interest of Amici Curiae

As the legislators who crafted FIRA and shepherded the bill through passage, *amici* can provide a unique and important perspective on several key questions of statutory interpretation and intent relevant to this matter. *Amici* have personal knowledge of the legislative history behind FIRA, and the Illinois lawmakers' intent in enacting the statute. The Illinois General Assembly enacted FIRA to confirm that under Illinois law, courts can and will hold gun manufacturers like Smith & Wesson accountable for the harm caused by the unfair and deceptive techniques and strategies they use to market dangerous weaponry like the M&P15, which was used to kill 7 people and injure 48 more in Highland Park on July 4, 2022. Given that both the intended operational effect and the constitutionality of FIRA are at issue in this appeal, *amici* have an interest in ensuring that the General Assembly's actions and intention in passing FIRA are accurately represented.

Specifically, *amici* are:

- ***Representative Jennifer Gong-Gershowitz.*** Rep. Gong-Gershowitz represents Illinois's 17th District, which includes all or parts of Evanston, Glenview, Golf, Morton Grove, Northbrook, Skokie, and Wilmette. Rep. Gong-Gershowitz is a lawyer by training and has been a leader in advocating for common sense gun safety laws. She was the lead sponsor of FIRA in the Illinois House of Representatives.
- ***Representative Bob Morgan.*** Rep. Morgan represents Illinois's 58th District, which includes the communities of Deerfield, Highland Park, Lake Forest, Glencoe, Northbrook, Highwood, Bannockburn, Mettawa, Lake Bluff, Lincolnshire, and North Chicago. Rep. Morgan chairs the Illinois House Democratic Firearm Safety Working Group ("FSWG") and led the passage of

the Protect Illinois Communities Act, banning assault weapons in Illinois. Rep. Morgan voted to pass FIRA in the Illinois House of Representatives.

- ***Representative Kam Buckner.*** Rep. Buckner represents the 26th District which covers all or parts of Bronzeville, Gold Coast, Grand Boulevard, Greater Grand Crossing, Hyde Park, Kenwood, Oakland, South Chicago, South Loop, South Shore, Streeterville and Woodlawn. Rep. Buckner is the Speaker Pro Tempore and a leader on the FSWG as well as the author of the ghost gun ban. He also supported the passage of the FIRA.
- ***Representative Maura Hirschauer.*** Rep. Hirschauer represents the 49th District which includes the far western side of DuPage and Cook Counties and far eastern Kane County suburbs, including the communities of Bartlett, West Chicago, and portions of Aurora, Batavia, Elgin, Geneva, Hanover, Naperville, South Elgin, Warrenville, Wayne and Winfield. She is the Chair of the Gun Violence Prevention Committee in the Illinois House of Representatives and the lead sponsor of Karinas Law and the Safe at Home Act.

Legislative Background

Plaintiffs' statutory claims arise from three Illinois statutes: the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/2 (the "CFA"); the Illinois Uniform Deceptive Trade Practices Act, 815 ILCS 510/2 (the "DTPA"); and the Illinois Firearms Industry Responsibility Act, 815 ILCS 505/2DDDD ("FIRA"). Among other defenses, Smith & Wesson asserts that Plaintiffs' claims under these state statutes are preempted by a fourth statute, the federal Protection of Lawful Commerce in Arms Act, 15 U.S.C. § 7901 *et seq.* ("PLCAA"). As members of the Illinois

General Assembly who were closely involved in the enactment of FIRA in 2023, *amici* are familiar with these statutes and FIRA's place within this statutory scheme. The floor debates in both the Illinois House of Representatives and the Illinois Senate reveal the Illinois General Assembly's intent that FIRA be declarative of existing law under the CFA, and that actions under FIRA and the CFA fit into PLCAA's well-recognized predicate exception.

The Illinois General Assembly enacted what is now known as the CFA in 1961. 815 ILCS 505/2. The CFA declared unlawful the employment or use of "[u]nfair methods of competition and unfair or deceptive acts or practices, including … any deception, fraud, false pretense, false promise, misrepresentation." *Id.* Four years later, in 1965, the General Assembly passed the DTPA. 815 ILCS 510/2. Under the DTPA, "[a] person engages in a deceptive trade practice when, in the course of his or her business," she engages in any one of certain enumerated acts that are designed to create confusion or misunderstanding. *Id.* The CFA was subsequently amended to proscribe the unfair and deceptive practices listed in Section 2 of the DTPA. 815 ILCS 505/2.

In 2005, the U.S. Congress enacted PLCAA. 15 U.S.C. § 7901 *et seq*. Designed to protect firearm manufacturers from criminal or civil liability for wrongs committed with their firearms, PLCAA provides that "[a] qualified civil liability action may not be brought in any Federal or State court." 15 U.S.C. § 7902(a). Notably, Congress carved out an exception from PLCAA—the predicate exception—which excludes from the definition of "qualified civil liability action" any civil lawsuit "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). A lawsuit that falls within the predicate exception is not barred by PLCAA.

Following the mass shooting at a parade in Highland Park on July 4, 2022, the Illinois General Assembly introduced House Bill 218, which was ultimately adopted and codified as the Illinois Firearms Industry Responsibility Act ("FIRA") on August 14, 2023. 815 ILCS 505/2DDDD. As enacted, FIRA recognizes that it is unlawful "for any firearm industry member, through the sale, manufacturing, importing, or marketing of a firearm-related product, to…[a]dvertise, market, or promote a firearm-related product in a manner that reasonably appears to support, recommend, or encourage individuals to engage in unlawful paramilitary or private militia activity in Illinois," or to "[o]therwise engage in unfair methods of competition or unfair or deceptive acts or practices declared unlawful under [the CFA]." *Id.* § 2DDDD(b), (b)(2), (b)(4).

The Illinois House of Representatives debated House Bill 218 on May 10, 2023. In remarks introducing the bill, Representative Jennifer Gong-Gershowitz explained that FIRA would not change existing law. Rather, it was intended to "amend[] the Illinois Consumer Fraud Act to clarify that the firearm industry is subject to the Act." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz). As Rep. Gong-Gershowitz explained, FIRA takes "preexisting standards of conduct in Illinois common law and the [CFA] regarding responsible sales and marketing practices and makes clear that they are applicable to the sale and marketing of firearms products." *Id.*

During the House debate, the legislators expressly discussed the fact that FIRA included a private right of action to victims of gun violence. As Rep. Gong-Gershowitz explained, "[FIRA] would enable victims of gun violence to bring a claim as well." *Id.* Opponents of the bill argued that recognizing a civil cause of action for individual victims of gun violence was too broad. *Id.* (statement of Rep. Dan Ugaste) (arguing that the bill "goes too far" because "[w]e are trying to give civil causes of action not just to the Attorney General's Office, in this case, not just to our state's attorneys and other publicly elected officials, but to every individual in the State of Illinois who can now look and sue, be it a business or a person . . . .").

In her remarks, Rep. Gong-Gershowitz also emphasized that the CFA, as clarified by FIRA, fell within PLCAA's predicate exception because it is a "state action applicable to the sale and marketing" of a firearm. *Id.* (statement of Rep. Gong-Gershowitz); *see* 15 U.S.C. § 7903(5)(A)(iii). No legislators disagreed.

The Illinois Senate debated House Bill 218 on May 18, 2023. In introducing the bill, Senator Don Harmon made clear that it was intended to confirm existing state law: "[FIRA] amends the long-standing [CFA], which has always been intended, as the title suggests, to protect consumers from fraud and deceptive business practices in the marketplace, including the marketplace for firearms." Ill. S. Tr., 2023 Reg. Sess. No. 53 (statement of Sen. Harmon). Senator Harmon explained that the bill "is clarifying, through the addition of express language, that the [CFA] does, in fact, apply to the marketplace of firearms" in compliance with PLCAA. *Id.*

Opponents in the Senate argued that the bill was too broad and conflicted with federal law. *See id.* (statement of Sen. Anderson) ("I think this bill is . . . a creative way to circumvent federal law."). In response, Senator Harmon noted that the bill complied with federal law because the CFA already fell within the predicate exception to PLCAA. *See id.* (statement of Sen. Harmon) ("We are expressly complying with the terms of the federal law to make sure that it doesn't invalidate our underlying predicate State law.").

FIRA passed by a vote of 71–40 in the House and 34–22 in the Senate. Governor J.B. Pritzker signed FIRA into law on August 12, 2023.

Argument

This brief responds to three of Smith & Wesson's arguments. ***First,*** contrary to Smith & Wesson's arguments, the legislative history makes clear that FIRA merely clarified existing Illinois consumer protection law and imposed no new substantive obligations on gun manufacturers. Smith & Wesson cannot hide behind PLCAA to argue otherwise. ***Second,*** in enacting FIRA, the Illinois General Assembly unambiguously intended to confirm the existence of a cause of action for the families of victims of gun violence such as the Plaintiffs in this case and did not intend to limit that cause of action to purchasers of firearms. Any other reading is inconsistent with the legislative history of FIRA and state law. ***Third,*** the statutory language of FIRA itself, in particular its articulation of a reasonableness standard, is not impermissibly vague. In fact, the Illinois General Assembly has used similar reasonableness language in a wide variety of important and well-recognized statutes for years.

I. The Illinois General Assembly intended FIRA to be declarative of existing law under the CFA.

The Illinois General Assembly enacted FIRA as a declaration of existing Illinois consumer protection law and did not create new substantive obligations for firearms manufacturers. The bill simply made clear that the Illinois consumer protection statute, the CFA, applies with equal force to the firearms industry, as it does to all covered companies that do business in Illinois. Smith & Wesson argues that Plaintiffs failed to plead a "knowing" violation under the predicate exception to PLCAA because "FIRA did not exist at the time of the events alleged in the complaints." App. Br. at 32. FIRA's legislative history reveals the obvious flaws in that position.

A. FIRA was a simple declaration of what was already true: the CFA applies to the firearms industry.

The Illinois General Assembly enacted FIRA in response to horrific incidents like the Highland Park Shooting to remind the firearms industry that in Illinois, marketing campaigns must comply with statutes like the CFA. FIRA was simply a declaration of already existing Illinois statutory law.

Statements from the legislative debates about the bill support this reading. As Rep. Gong-Gershowitz explained during the House floor debates, FIRA reaffirmed preexisting standards of conduct in the CFA regarding responsible sales and marketing practices and makes clear that they are applicable to the sale and marketing of firearms. *See supra* and Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of

Rep. Gong-Gershowitz); *see also* Ill. S. Tr., 2023 Reg. Sess. No. 53 (statement of Sen. Harmon) ("[FIRA] amends the long-standing Consumer Fraud and Deceptive Business Practices Act, which has always been intended, as the title suggests, to protect consumers from fraud and deceptive business practices in the marketplace, including the marketplace for firearms."). The drafters of the bill themselves understood FIRA to be "expressly defining and ensuring that is clearly understood the nature of the conduct that could give rise to liability under the Consumer Fraud Act holding firearms manufacturers accountable." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz).

Smith & Wesson's claim that FIRA's clarification that Illinois consumer protection law applies to the gun industry is "inherently indeterminate and retrospective" falls of its own weight. App. Br. at 33. Gun sellers have, in fact, been subject to successful lawsuits for violations of the CFA prior to the passage of FIRA. For example, over a decade before FIRA was enacted, an Illinois circuit court granted summary judgment for a gun purchaser's CFA claim on account of a gun seller's unfair and deceptive advertising practices. *Pineschi v. Radant*, No. 09-L-295 (Ill. Cir. Ct. June 14, 2010) (A true and correct copy of this Order is attached to this Brief along with the underlying Complaint, *see* Supporting Appendix.). This Court affirmed a grant of summary judgment to a gun purchaser who alleged that a gun seller "improperly collected a 7.25% sales tax from plaintiff and other known members of a class for out-of-state transfers of guns" in "violation of the Consumer Fraud and Deceptive Business Practice Act." *Pineschi v. Radant*, No. 2-10-0707, 2011 WL

10453949, at *1 (Ill. App. Ct. May 17, 2011). The goal in enacting FIRA was not to correct any alleged misconception that Illinois law did not apply to the firearm industry. Rather, FIRA simply affirmed what Smith & Wesson and all others operating in the commerce of firearms already knew or should have known: "that the firearm industry does not get special treatment under Illinois law." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz).

B. By enacting FIRA, the Illinois General Assembly intended to confirm that the CFA fits into PLCAA's predicate exception.

When drafting and structuring FIRA, the Illinois General Assembly was well aware of the dictates of PLCAA. *See* Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz) ("[FIRA's] clarification is necessary to ensure that courts correctly interpret that the CFA falls within the predicate exception and is not preempted by PLCAA."). With that understanding, the Illinois General Assembly's purpose in enacting FIRA was to explain how the CFA fit neatly into PLCAA's predicate exception.

PLCAA "affords manufacturers and sellers of firearms immunity from civil liability arising from the criminal or unlawful use of their products by third parties." *Id*. As Rep. Gong-Gershowitz and others stated when discussing FIRA during floor debate, "Congress laid out six exceptions" to PLCAA, including "the predicate exception." *Id.* This predicate exception "permits civil actions alleging that a manufacturer knowingly violated a state or federal statute applicable to the sale or marketing of a firearm" when the violation was "a proximate cause of the harm." *Id*. In enacting FIRA, Rep. Gong-Gershowitz and the other sponsors of the legislation made clear that the CFA fit into "the predicate exception for predicate state action applicable to the sale and marketing [of firearms]." *Id.*

The sponsors of FIRA acted on solid legal ground in confirming that civil actions brought under the CFA qualify as a predicate exception to PLCAA. As Plaintiffs themselves acknowledge,[1] courts nationwide consistently hold that similarly structured statutes satisfy the predicate exception. *See*, *e.g.*, *Nat'l Shooting Sports Found., Inc. v. James*, 144 F.4th 98, 111 (2d Cir. 2025) (holding that a New York state law imposing liability for gun industry members who knowingly or recklessly endangered safety or health of public through their sale or marketing of firearm "falls within the bounds of PLCAA's predicate exception as written . . ."); *Doyle v. Combined Sys., Inc.*, No. 22-CV-01536, 2023 WL 5945857, at *10 (N.D. Tex. Sep. 11, 2023) (finding that claims under Texas's Deceptive Trade Practices Act "fit comfortably within the predicate exception."); *Prescott v. Slide Fire Sols., LP*, 410 F. Supp. 3d 1123, 1138-39 (D. Nev. 2019) (finding that Nevada's Deceptive Trade Practices Act "specifically regulates the sale and marketing of goods" so that claims under it are permitted under PLCAA.); *Soto v. Bushmaster Firearms Int'l, LLC*, 202 A.3d 262, 301, 312 (Conn. 2019) (Connecticut's Unfair Trade Practices Act was a statute "applicable to sale or marketing of firearm" within meaning of predicate exception to defendants' immunity from civil liability under PLCAA).

[1] *See* Plaintiffs' Answer to Smith & Wesson's Application for Leave to Appeal under Rule 308, No. 2-25-0274, at *17-18 (App. Ct. 2d Jud. Dist. Aug. 27, 2025); Answer to Petition for Leave to Appeal, No. 132414, at 11-13 (Ill. Dec. 12, 2025).

In enacting FIRA, the Illinois General Assembly intended to make clear that the CFA is a statute "applicable to the sale or marketing" of firearms, and thus "fall[s] squarely within the predicate exception." *Soto*, 202 A.3d at 301, 312. This intention was consistent with case law interpreting similar statutes nationwide.

II. The Illinois General Assembly intended FIRA to confirm that victims of gun violence could sue under the CFA.

The legislative history is equally clear on a second point: the Illinois General Assembly intended to allow victims of gun violence and their families to sue gun manufacturers for the harms caused by their unfair and deceptive marketing campaigns. Accordingly, Smith & Wesson's claim that only customers who viewed Smith & Wesson's unfair and misleading advertisements for the M&P15 can sue under the CFA is a plainly erroneous reading of FIRA. *See* App. Br. at 21-22. Not only would Smith & Wesson's reading of the statute require this Court to ignore the explicit legislative history of FIRA, but it would also lead to an absurd result that the Illinois General Assembly did not intend.

A. FIRA was intended to recognize that victims of gun violence and their families could sue under the CFA.

Smith & Wesson argues that Plaintiffs' reading of FIRA "would effectively render the CFA subject to enforcement by an army of private attorneys general," and that "[i]f the Illinois legislature intended such a result, it would have written it into the law." App. Br. at 22. This reading is contrary to the legislative history. The sponsors of FIRA plainly intended that parties similarly situated to Plaintiffs here be able to sue gun manufacturers for their false and deceptive advertising. This Court need look no further than Rep. Gong-Gershowitz's statements during the floor debate that FIRA "is designed to hold gun manufacturers accountable and ensure that *families devastated by gun violence* have a path to justice in Illinois civil courts." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz) (emphasis added).

B. Any other reading of FIRA would be contrary to legislative intent and render the statute superfluous.

Smith & Wesson's proposed alternative reading of FIRA is untenable. In Smith & Wesson's view, only "the intended target[s]" of marketing campaigns for firearms who were in fact "deceived by" the subject advertisements may sue under the CFA. App. Br. at 21-22. Besides being legally incorrect, this reading is not supported by the legislative history of FIRA.

By its very terms, FIRA "amends the Consumer Fraud and Deceptive Practices Act. Accordingly, it incorporates all existing rights and remedies under the Act, which means that individuals can bring claims, in addition to counties and the Attorney General." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz). As even the opponents of FIRA in the Illinois General Assembly understood, the bill was "trying to give civil causes of action not just to the Attorney General's Office, in this case, not just to our state's attorneys and other publicly elected officials, but to every individual in the State of Illinois who can now look and sue, be it a business or a person…." *Id.* (statement of Rep. Ugaste, opposing FIRA's passage).

Under Smith & Wesson's reading of FIRA and the CFA, in the face of horrific incidents of mass violence, only the actual *perpetrators of* the violence could sue gun manufacturers for unfair and deceptive advertising. In this case, that would mean that only the most illogical plaintiff could sue Smith & Wesson for the harm caused by its unfair and deceptive marketing campaign of the M&P15—Robert Crimo, III, himself, who killed 7 people and wounded 48 more with Smith & Wesson's M&P15. Such a reading is absurd and could not be further from the Illinois General Assembly's intent and purpose in passing the statute.

C. Illinois courts regularly recognize CFA lawsuits by non-purchasers.

FIRA was not breaking new ground in recognizing a cause of action for non-purchasers related to unfair and deceptive marketing tactics. FIRA's sponsors worked closely with the Office of the Illinois Attorney General to craft the bill in a manner consistent with past practice and interpretation under the CFA, which has long been "a primary tool available to hold businesses accountable for fraudulent or deceptive practices through civil litigation." Kwame Raoul, *Attorney General Raoul Applauds House Passage of Legislation to Hold Gun Industry Accountable for Unlawful Consumer Practices*, Off. of Ill. Att'y Gen., (May 10, 2023), https://illinoisattorneygeneral.gov/news/story/attorney-general-raoul-applauds-house-passage-of-legislation-to-hold-gun-industry-accountable-for-unlawful-consumer-practices. In enacting FIRA, the Illinois General Assembly was simply recognizing what Illinois courts long have held: that the ability to sue for injuries arising from fraudulent, harmful, deceptive, or unfair practices under the CFA extends beyond the direct purchasers of the harming product. *See*, *e.g.*, *Olson v. Ferrara Candy Co.*, 275 N.E.3d, 439, at *462 (Ill. App. Ct. 2025) (finding that former employe could pursue claim under CFA for loss of privacy due to data breach); *Bank*

One Milwaukee v. Sanchez, 336 Ill. App. 3d 319, 322 (2003) (finding that an individual who alleged her signature had been forged as a cosigner on a contract for a vehicle sale could pursue a claim under the CFA); *Empire Home Servs., Inc. v. Carpet Am., Inc.*, 274 Ill. App. 3d 666, 669 (1995) (finding that a seller and installer of carpet could pursue a CFA claim against a competitor); *Sullivan's Wholesale Drug Co. v. Faryl's Pharmacy, Inc.*, 214 Ill. App. 3d 1073, 1082 (1991) (noting that "[t]he protections of the statute [the CFA] are not limited to consumers" and allowing one pharmacy to sue another for concealment of an illegal kickback scheme). Recognizing the ability of non-purchasers to sue under the CFA to remediate the harms of such conduct is consistent with this well-established case law.

III. FIRA's "reasonably appears" language is not impermissibly vague.

Finally, FIRA is not impermissibly vague simply because it adopts a reasonableness standard.[2] The statute employs a universally accepted legal standard in confirming that a firearm manufacturer may be held liable for consumer fraud if it "[a]dvertise[s], market[s], or promote[s] a firearm-related product in a manner that *reasonably appears* to support recommend, or encourage individuals to engage in [prohibited conduct]." 815 ILCS 505/2DDDD(b)(2) (emphasis added). Smith & Wesson argues that, because FIRA does not provide explicit guidance about what type of marketing can be considered to "reasonably appear" to support military-related

[2] Defendants focus their vagueness argument on Section (b)(2) of FIRA. In so doing, Defendants largely ignore Plaintiffs' Section (b)(4) unfairness claim, which does not depend on the reasonableness language Defendants claim to be vague in Section (b)(2). This Section rebuts Defendants' argument as to the latter.

purposes, the statute is impermissibly vague. App. Br. at 35. But that argument would render void similar reasonableness language in scores of statutes and common law decisions throughout the nation. Like legislatures and courts across the country, the Illinois General Assembly and Illinois courts regularly include and interpret reasonableness standards in business regulations just like FIRA. These statutes are based on broadly accepted negligence principles under the common law that "courts have long used . . . to set an objective standard based on ordinary care in the relevant circumstances." Brandon L. Garrett, Constitutional Reasonableness, 102 MINN. L. REV. 61, 70 (2017) None of those statutes are impermissibly vague, and neither is FIRA.

A. The Illinois General Assembly uses similar language in a wide variety of business regulation statutes.

The Illinois General Assembly regularly uses a reasonableness standard in crafting statutes that regulate businesses. From product safety standards to advertising requirements, these statutes impose obligations or define the rights of businesses by reference to what is "reasonable." Examples of such statutes include:

- ***The Fire and Safety Device Act.*** Section 5(a) of the Fire and Safety Device Act, prohibits "[t]he manufacture, installation, or sale of any device or object that ***reasonably appears*** to be a smoke detector…or any other similar device used for life safety or fire protection that is, in fact, neither designed nor capable of performing such life safety or fire protection function." 425 ILCS 12/5(a) (emphasis added).

- ***Illinois's Implementation of the Uniform Commercial Code.*** Section 2-704(2) of the Uniform Commercial Code provides that "[w]here the goods are unfinished an aggrieved seller may in the exercise of ***reasonable*** commercial judgment…either complete the manufacture…or cease manufacture…or proceed in any other ***reasonable*** manner." 810 ILCS 5/2-704(2) (emphasis added). And Section 2-715 of the Uniform Commercial Code provides that a buyer's "[i]ncidental damages resulting from the seller's breach include expenses ***reasonably*** incurred in inspection…, any commercially ***reasonable*** charges…in connection with effecting cover and any other ***reasonable*** expense incident to the delay or other breach." 810 ILCS 5/2-715.
- ***The Lead Poisoning Prevention Act.*** Section 6(a)(Q)(i) of the Lead Poisoning Prevention Act provides that whether a toy is designed for children's use is evaluated in consultation with the manufacturer's statement "about the intended use of the product…if such statement is ***reasonable***." 410 ILCS 45/6(a)(Q)(i) (emphasis added).
- ***The Food, Drug and Cosmetic Act.*** Section 17.2(f) of the Illinois Food, Drug and Cosmetic Act provides that a cosmetics manufacturer must provide its testing data if the State's Attorney determines "there is a ***reasonable likelihood*** of a violation of this Section." 410 ILCS 620/17.2(f) (emphasis added).

- ***The Motor Vehicle Franchise Act.*** Section 4(g) of the Motor Vehicle Franchise Act provides it is a violation "for a manufacturer…to directly or indirectly condition the awarding of a franchise to a prospective new motor vehicle dealer…on the willingness of a dealer…to enter into a site control agreement or exclusive use agreement unless separate and ***reasonable*** consideration was offered and accepted for that agreement." 815 ILCS 710/4(g) (emphasis added).
- ***The Electronic Mail Act.*** Section 10(g) of the Electronic Mail Act provides that "[n]o electronic mail service provider may be held liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any unsolicited electronic mail advertisement which it ***reasonably believes*** is, or will be, sent in violation of this Section." 815 ILCS 511/10(g) (emphasis added).
- ***The Meat and Poultry Inspection Act.*** Section 13(g)(1)(C) of the Meat and Poultry Inspection Act provides that "[n]o person advertising, offering for sale or selling any carcasses or parts thereof or food plan shall engage in any misleading or deceptive practices and particularly including, but not limited to…fail[ing] to have available a sufficient quantity of any product represented as being for sale to meet ***reasonably anticipated*** demands." 225 ILCS 650/13(g), (g)(1)(C) (emphasis added).

- ***The Prevention of Tobacco Use by Persons under 21 Years of Age Act.*** Section 1(a-9) of the Prevention of Tobacco Use by Persons Under 21 Years of Age and Sale and Distribution of Tobacco Products Act exempts "adult-only facilities" from requirements related to monitoring underage consumption of tobacco products, defining adult-only facilities as those "where the operator ensures or has a ***reasonable basis*** to believe…that no person under legal age is present." 720 ILCS 675/1(a-9) (emphasis added).
- ***The Dental Practice Act.*** Under Section 45(h) of the Illinois Dental Practice Act limits the information that can be included in advertisements for dental services including "[o]ther information about the dentist, dentist's practice or the types of dental services which the dentist offers to perform which a ***reasonable person might regard as*** relevant in determining whether to seek the dentist's services." 225 ILCS 25/45(h) (emphasis added).
- ***The Franchise Disclosure Act.*** Section 3(20)(a) of the Franchise Disclosure Act of 1987 defines acceptance of a franchise agreement in the state as being when "the offeree directs it to the offeror in this State ***reasonably believing*** the offeror to be in this State." 815 ILCS 705/3(20)(a) (emphasis added).
- ***The Uniform Deceptive Trade Practices Act.*** Section 2(a)(10) of the Uniform Deceptive Trade Practices Act provides that "[a] person

> engages in a deceptive trade practice when…the person…advertises goods or services with intent not to supply ***reasonably expectable*** public demand, unless the advertisement discloses a limitation of quantity." 815 ILCS 510/2(a), (a)(10) (emphasis added).

Like courts across the country, Illinois courts routinely apply statutory reasonableness standards without any concern regarding vagueness. *See, e.g.*, *Ardt v. Dep't of Pro. Regul.*, 218 Ill. App. 3d 61, 68 (1991) (finding the advertising requirement of Section 45 of the Dental Practice Act, *supra*, to be "reasonably clear enough to serve as a guide to those who must comply with them" as "the boundaries between permissible and impermissible advertising are clearly defined"); *Gen. Motors Corp. v. State Motor Vehicle Rev. Bd.*, 224 Ill. 2d 1, 8–9, 27 (2007) (finding a statutory good cause requirement in the Motor Vehicle Franchise Act that depends on "commercial reasonableness" to not be unconstitutionally vague); *Jaffe v. Cruttenden*, 412 Ill. 606, 611 (1952) ("No reason appears why dealers in securities, of ordinary intelligence, would be unable to know when their purchases or sales were not 'reasonably related to the current market price.' That marginal cases may present difficulties does not mean that the language is too ambiguous to define the duties and conditions involved.") (citation omitted); *see also People v. Lowe*, 202 Ill. App. 3d 648, 655 (1990) (noting that a criminal statute governing the use of force when using a trespasser that relies on whether the person "reasonably believes that such conduct is necessary" has been determined to be constitutional because it "apprises defendant of when he has committed a battery") (citation omitted).

Businesses and courts are no less capable of ascertaining whether a firearm manufacturer's advertisement "reasonably appears to support, recommend, or encourage individuals to engage in unlawful paramilitary or private militia activity in Illinois" than they are in the numerous other contexts in which they must evaluate reasonableness. 815 ILCS 505/2DDDD(b)(2). In crafting FIRA, the Illinois lawmakers had this long list of statutes and many years of case law in mind.

B. The Illinois General Assembly trusts sophisticated businesses to navigate their obligations under consumer protection statutes.

Sophisticated businesses are equipped to navigate their obligations under consumer protection statutes like FIRA. The Illinois General Assembly drafted FIRA in close collaboration with the Attorney General's Office. *See* Kwame Raoul, *Attorney General Raoul Issues Statement Applauding President Biden's Executive Order to Reduce Gun Violence*, Off. Ill. Att'y Gen. (Mar. 14, 2023), https://illinoisattorneygeneral.gov/news/story/attorney-general-raoul-issues-statement-applauding-president-bidens-executive-order-to-reduce-gun-violence ("calling on the Legislature to pass the [FIRA] to clarify that our office can use that same authority [under the CFA] to protect Illinois residents from the trauma of gun violence"). The Attorney General's Office has used the CFA to hold opioid and e-cigarette manufacturers accountable for their unlawful marketing practices. *Id.* FIRA is intended only to "ensur[e] that [it] is clearly understood the nature of the conduct that could give rise to liability under the [CFA] holding firearms manufacturers accountable." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz).

The General Assembly strives not to be overly proscriptive with the language of regulatory statutes. Thus, "[g]reater leeway in definition is allowed the legislature in the context of regulatory statutes governing business activities." *Scott v. Ass'n for Childbirth at Home, Int'l*, 88 Ill. 2d 279, 290 (1981) (citing *Papachristou v. City of Jacksonville*, 405 U.S. 156 (1972)). Flexibility for the General Assembly is required for effective regulation, because the legislature cannot be expected to "'anticipate and enumerate all the (unfair) methods' and practices that fertile minds might devise." *Id.* at 290–91 (explaining why "unfair practice" and "unfair methods of competition" in the CFA are sufficiently definite to avoid vagueness challenges despite being "inherently insusceptible of precise definition").

Furthermore, businesses like firearm manufacturers have the resources and sophistication to navigate their obligations under the CFA and FIRA. *See Gordon v. Boden*, 224 Ill. App. 3d 195, 206 (1991) ("Section 11a of the [CFA] provides that '[the] Act be liberally construed to effect the purposes thereof.'" It is quite established that "[t]he provision is a clear mandate from the Illinois legislature that our courts utilize the Act to the utmost degree in eradicating all forms of deceptive and unfair business practices and grant appropriate remedies to injured parties.") (citation omitted); *see also McRaith v. BDO Seidman, LLP*, 391 Ill. App. 3d 565, 575 (2009) (reversing a dismissal order where the moving party "is a sophisticated national accounting firm with experienced attorneys that were fully aware of the consequences" of waiving statutory defenses).

C. The Illinois General Assembly used a reasonableness standard in FIRA because reasonableness is a widely used and understood legal concept.

Finally, Smith & Wesson's interpretation of FIRA would destroy the foundation of the law on negligence. Other states, the federal courts, and the common law all rely on reasonableness to set clear and effective standards for behavior.[3] "Numerous legal rules hinge on what a reasonable person would think or expect." *Omnicare, Inc. v. Laborers Dist. Council Constr. Indus. Pension Fund*, 575 U.S. 175, 194 (2015). "Reasonableness standards are pervasive in administrative law, civil procedure, contract law, corporate law, criminal law, criminal procedure, employment discrimination law, tort law, and innumerable other fields." Garrett, 102 MINN. L. REV. at 70. In fact, existing common-law tort standards "all embody in some degree the concept of unreasonableness." Restatement (Second) of Torts § 821B cmt. e (Am. L. Inst. 1979); *see also* James Gibson, Doctrinal Feedback and (Un)reasonable Care, 94 VA. L. REV. 1641, 1642 (2008) ("Indeed, reasonable care has been tort law's touchstone for over one hundred years."). If Smith & Wesson is taking the position that FIRA's reasonableness language is impermissibly vague, then their position is that the same is true of scores of state and federal statutory provisions and widely accepted common law standards. That position is untenable.

* * *

[3] *Amici* do not contend that FIRA is simply a codification of the common law. As explained above, FIRA is confirmation of existing Illinois statutory law protecting consumers. *Amici* reference common law only to explain the wide-ranging implications of Defendants' vagueness argument in other contexts that also depend on reasonableness.

FIRA proscribes unfair and deceptive advertising by firearm manufacturers using a widely accepted reasonableness standard of liability. That FIRA is not vague is evidenced by its plain statutory text, the General Assembly's express intent in passing it, Illinois courts' regular application of reasonableness tests, and the legislative flexibility required and recognized in the context of business regulation.

Conclusion

In enacting FIRA, the Illinois General Assembly sought to take "preexisting standards of conduct in Illinois common law and the Consumer Fraud Act regarding responsible sales and marketing practices and make[] clear that they are applicable to the sale and marketing of firearms products." Ill. H. Tr., 2023 Reg. Sess. No. 43 (statement of Rep. Gong-Gershowitz). The Illinois General Assembly sought to confirm "that families devastated by gun violence have a path to justice in Illinois civil courts." *Id*. FIRA's legislative history is clear and consistent on this point. This Court should reject Smith & Wesson's strained reading of FIRA to mean anything different.

Respectfully submitted,

By: <u>*/s/ Tucker Craven*</u>

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CERTIFICATE OF COMPLIANCE

The undersigned certifies that the foregoing brief conforms to the requirements of Rule 341 and Rule 345(b). The length of the brief, excluding the pages and words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 6,045 words.

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Case No. 2-25-0274

IN THE APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

KEELY ROBERTS, individually and as parent and next friend of C.R. and L.R, and JASON ROBERTS, Plaintiffs-Appellees, v. SMITH & WESSON BRANDS, INC., et al., Defendants-Appellants, and, CYBEAR INTERACTIVE, LLC, et al., Respondents in Discovery.	Appeal from the Circuit Court of Lake County, Illinois, Law Division Trial Court No.: 2022 LA 00000487; Consolidated for Pretrial Purposes with Case Nos. 22 LA 00000488, 22 LA 00000489, 22 LA 00000490, 22 LA00000491, 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 Trial Judge: Honorable Jorge L. Ortiz

SUPPORTING APPENDIX OF *AMICI CURIAE*

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

SCANNED ON @!@08/04/2010

KENNETH V PINESCHI, DDS, individually and as the representative of a class of similarly-situated persons Plaintiff, vs **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, Defendant	*At Law* CASE NO 09 L295 FILED Date: JUL 29 2009 Thomas A Klein Clerk of the Circuit Court By ____ Deputy Winnebago County, IL

COMPLAINT

Count I
Common Law Fraud

NOW COMES, KENNETH V. PINESCHI, DDS, and for his first cause of action against the defendant **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop

1 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop has a Federal Firearms License

2 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop have not registered under the Illinois Assumed Business Name Act (805 ILCS 405 et seq)

3 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop receives guns from internet and out of state sales for the purpose of registering the transfer to the new owner

4 The defendant registered three transfers for the plaintiff Kenneth V Pineschi The transfers are as follows

a November 25, 2008 receipt 406219 (Exhibit "A") b October 15, 2008 receipt 406203 (Exhibit "B")

c September 27, 2008 receipt 364943 (Exhibit "C")

5 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop charged a transfer fee of $25 00 on each of the individual transactions listed above plus a $5 charge for a state call

6 None of the transfers above occurred as a result of sales at retail of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

7 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop did not sell any tangible personal property or goods to the plaintiff as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

8 In spite of the fact that none of the transactions identified above were the result of sales of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq), the defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop represented to the plaintiff that sales tax was due and owing on the transfers

9 In spite of the fact that none of the transactions identified above were the result of sales of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq), the defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop represented to the plaintiff that the defendant was the proper collection agent for sales tax on the transfers

10 Sales Tax (Retailers' Occupation Tax) is not taxable on the service of registering transfers as identified above See ST 08-180-GIL 12/11/2008 SALE OF SERVICE (Exhibit "D")

11 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, knew that it was not selling the guns that were the subject of the transfers identified above

12 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, knew that Retailers' Occupation Tax (Sales tax) was only chargeable upon sales of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

13 By making the representations identified above the plaintiff was deceived into paying the sums identified as "tax" in the invoices attached hereto as Exhibits "A-C "

14 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, made such representations and issued such invoices with the intent to deceive the plaintiff into believing that he was required to pay such sums to the defendant

15 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, intended that the plaintiff would rely upon the representations of the defendant and that the plaintiff would pay such sums to the defendant

16 The plaintiff paid sums of money to the defendant under false pretenses as identified in the invoices attached hereto as Exhibits "A-C "

17 The plaintiff believed the defendant's representations regarding his obligation to pay the aforesaid tax, that the transactions were taxable, that the defendant was the proper person to collect the aforesaid tax

WHEREFORE, the plaintiff prays that this court enter a judgment against the defendant for

A An order enjoining the defendant from charging or collecting sales tax on the service of registering transfers of firearms,

B The sums of money paid under false pretenses,

C The plaintiff's attorney fees and costs of suit,

D Punitive damages in an amount sufficient to instruct the defendant and others similarly situated not to engage in such fraudulent activities

CLASS ALLEGATIONS

18 Pursuant to 735 ILCS 5/2-801, plaintiff brings this action on behalf of the following class of persons (the "Class")

> All persons who had the defendant register a gun transfer where the wherein no sale occurred in the State of Illinois and the persons were the defendant represented, collected or charged a sales or retailers occupation tax on the transfer

19 A class action is proper in that

A On information and belief, the Class consists of numerous persons so numerous that joinder of all members is impracticable,

B There are questions of fact or law common to the Class predominating over questions affecting only individual Class members, including whether the collection or charging a sales or retailers occupation tax on transfers where no sale of tangible personal property occurred in the State of Illinois,

C Whether the defendant is liable for statutory and common law fraud for misrepresentations as to the aforesaid taxes, and whether plaintiff and the other members of the Class were damaged,

D Plaintiff will fairly and adequately protect the interests of the Class He does not have any interests adverse to the Class He has retained counsel to represent him in this action, and

E A class action is an appropriate method for the fair and efficient resolution of this controversy

Count II

Class Action Common Law Fraud

NOW COMES, the plaintiff, on behalf of himself and members of the above stated class of similarly situated persons and states as follows

20 The Plaintiff repeats and restates the allegations contained above as the allegations of this count as if fully stated herein

21 The plaintiff upon information and belief states that the defendant has engaged in similar transactions with numerous other individuals, identified hereinafter as "class members "

22 Upon information and belief the plaintiff states that the defendant has falsely and fraudulently charged tax on such transactions to numerous the plaintiff as well as the other "class members "

WHEREFORE, the plaintiff prays that this court enter a judgment against the defendant for

A An order enjoining the defendant from charging or collecting sales tax on the service of registering transfers of firearms,

B The sums of money paid by the "class members" under false pretenses,

C The plaintiff's attorney fees and costs of suit,

D Punitive damages in an amount sufficient to instruct the defendant and others similarly situated not to engage in such fraudulent activities

Count III

Consumer Fraud and Deceptive Business Practices Act

NOW COMES, the plaintiff and for a further cause of action states as follows

1 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop has a Federal Firearms License

2 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop have not registered under the Illinois Assumed Business Name Act (805 ILCS 405 et seq)

3 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop receives guns from out of state transfers for the purpose of registering the transfer to the new owner

4 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, is engaged in the conduct of a trade or commerce

5 The defendant registered three transfers for the plaintiff Kenneth V Pineschi The transfers are as follows

a November 25, 2008 receipt 406219 (Exhibit "A")

b October 15, 2008 receipt 406203 (Exhibit "B")

c September 27, 2008 receipt 364943 (Exhibit "C")

6 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop charged a transfer fee of $25 00 on each of the individual transactions listed above plus a $5 charge for a state call

7 None of the transfers above occurred as a result of sales at retail of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

8 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop did not sell any tangible personal property or goods to the plaintiff as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

9 In spite of the fact that none of the transactions identified above were the result of sales of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq), the defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop represented to the plaintiff that sales tax was due and owing on the transfers

10 In spite of the fact that none of the transactions identified above were the result of sales of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq), the defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop represented to

the plaintiff that the defendant was the proper collection agent for sales tax on the transfers

11 Sales Tax (Retailers' Occupation Tax) is not taxable on the service of registering transfers as identified above See ST 08-180-GIL 12/11/2008 SALE OF SERVICE (Exhibit "D")

12 By charging and or collecting improper sales tax the defendant engaged in an unfair method of competition, or unfair or deceptive act or practice, in the conduct of a trade or commerce as defined in the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505 et seq)

13 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop, intended that the plaintiff or others would rely upon the representations of the defendant and that the plaintiff or others would pay such sums to the defendant

14 The plaintiff paid sums of money to the defendant under false pretenses as identified in the invoices attached hereto as Exhibits "A-C "

WHEREFORE, the plaintiff prays that this court enter a judgment against the defendant for

A An order enjoining the defendant from charging or collecting sales tax on the service of registering transfers of firearms,

B The sums of money paid under false pretenses,

C The plaintiff's attorney fees and costs of suit,

D Punitive damages in an amount sufficient to instruct the defendant and others similarly situated not to engage in such fraudulent activities

Count IV

Class Action Consumer Fraud and Deceptive Business Practices Act

NOW COMES, the plaintiff, on behalf of himself and members of the above stated class of similarly situated persons and states as follows

15 The Plaintiff repeats and restates the allegations contained in paragraphs one through fourteen in Count III above as the allegations of this count as if fully stated herein

16 The plaintiff upon information and belief states that the defendant has engaged in similar transactions with numerous other individuals, identified hereinafter as "class members "

17 Upon information and belief the plaintiff states that the defendant has falsely and fraudulently charged tax on such transactions to numerous other "class members "

WHEREFORE, the plaintiff prays that this court enter a judgment against the defendant for

A An order enjoining the defendant from charging or collecting sales tax on the service of registering transfers of firearms,

B The sums of money paid under false pretenses,

C The plaintiff's attorney fees and costs of suit,

D Punitive damages in an amount sufficient to instruct the defendant and others similarly situated not to engage in such fraudulent activities

Count V
Conversion

NOW COMES, **KENNETH V PINESCHI, DDS**, and for a further cause of action against the defendant **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop

1 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop has a Federal Firearms License

2 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop have not registered under the Illinois Assumed Business Name Act (805 ILCS 405 et seq)

3 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop receives guns from internet and out of state sales for the purpose of registering the transfer to the new owner

4 The defendant registered three transfers for the plaintiff Kenneth V Pineschi The transfers are as follows

a November 25, 2008 receipt 406219 (Exhibit "A")

b October 15, 2008 receipt 406203 (Exhibit "B")

c September 27, 2008 receipt 364943 (Exhibit "C")

5 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop charged a transfer fee of $25 00 on each of the individual transactions listed above plus a $5 charge for a state call

6 None of the transfers above occurred as a result of sales at retail of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

7 The defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop did not sell any tangible personal property or goods to the plaintiff as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq)

8 Sales Tax (Retailers' Occupation Tax) is not taxable on the service of registering transfers as identified above See ST 08-180-GIL 12/11/2008 SALE OF SERVICE (Exhibit "D")

9 In spite of the fact that none of the transactions identified above were the result of sales of tangible personal property in the State of Illinois, as defined in the Illinois Retailers' Occupation Tax Act (35 ILCS 120/1 et seq), the defendant, **LARRY RICHARD RADANT** and unknown owners d/b/a Larry's Gun Shop received funds

belonging to the plaintiff which were identified on the receipts as tax and converted said funds the defendant's use

10 The plaintiff did not voluntarily pay said sums of money identified as tax to the defendant

11 The plaintiff has an absolute and unconditional right to the immediate possession of the property

12 The plaintiff has made a demand of the defendant for return of said property

13 The defendant has wrongfully and without authorization from the plaintiff assumed control, dominion, or ownership over the property

WHEREFORE, the plaintiff prays that this court enter a judgment against the defendant for

A An order enjoining the defendant from charging or collecting sales tax on the service of registering transfers of firearms,

B The sums of money converted by the defendant,

C The plaintiff's attorney fees and costs of suit,

D Punitive damages in an amount sufficient to instruct the defendant and others similarly situated not to engage in conversions of funds belonging to others

Count VI

Class Action Conversion

NOW COMES, the plaintiff, on behalf of himself and members of the above stated class of similarly situated persons and states as follows

14 The Plaintiff repeats and restates the allegations contained in paragraphs one (1) through thirteen (13) in Count V above as the allegations of this count as if fully stated herein

15 The plaintiff upon information and belief states that the defendant has engaged in similar transactions with numerous other individuals, identified hereinafter as "class members "

16 Upon information and belief the plaintiff states that the defendant has converted funds belonging to the class members which funds were identified as tax on such transactions with the plaintiff as well as the other "class members "

WHEREFORE, the plaintiff on behalf of himself and the class members prays that this court enter a judgment against the defendant for

A An order enjoining the defendant from charging or collecting sales tax on the service of registering transfers of firearms,

B The sums of money paid by the "class members" under false pretenses,

C The plaintiff's attorney fees and costs of suit,

D Punitive damages in an amount sufficient to instruct the defendant and others similarly situated not to engage in conversions of funds belonging to others

KENNETH V. PINESCHI, DDS,
individually and as the representative of a class of similarly-situated persons

By ______________________
MARK A. ROULEAU

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CC - 75

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
COUNTY OF WINNEBAGO

Pinescsi

vs

Radant

FILE STAMP
FILED
Date 6, 14, 10
Thomas A Klein
Clerk of the Circuit Court
By [signature] Deputy
Winnebago County, IL

Case No. 09-C-295

ORDER

This Cause coming to be heard on Cross Motions for Summary Judgment, due notice being given and following hearing, It is hereby ordered:

1) Counts II, IV and VI are voluntarily dismissed
2) Defendant is granted Summary Judgment as to Counts I and V
3) Plaintiff is granted Summary Judgment as to Count III
4) Judgment is hereby entered against ~~Plaintiff~~ Defendant and in favor of Plaintiff in the amount of $103 plus attorneys fees in the amount of $220 for a total of $323.00
5) The Court having found that Defendant improperly imposes Sales Tax under Retailers Occupation Tax Act, the Defendant is hereby enjoined from such improper imposition in the future

Enter 6/14/10

Judge [signature]

CF 5 28 07

Case No. 2-25-0274

IN THE APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

KEELY ROBERTS, individually and as parent and next friend of C.R. and L.R, and JASON ROBERTS, Plaintiffs-Appellees, v. SMITH & WESSON BRANDS, INC., et al., Defendants-Appellants, and, CYBEAR INTERACTIVE, LLC, et al., Respondents in Discovery.	))))))))))))	Appeal from the Circuit Court of Lake County, Illinois, Law Division Trial Court No.: 2022 LA 00000487; Consolidated for Pretrial Purposes with Case Nos. 22 LA 00000488, 22 LA 00000489, 22 LA 00000490, 22 LA00000491, 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 Trial Judge: Honorable Jorge L. Ortiz

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You are hereby notified that this 18th day of June, 2026, Tucker Craven filed and served electronically, with the Clerk's Office of the Appellate Court of Illinois, the foregoing Motion for Leave to File Brief of *Amici Curiae*, of a copy of which accompanies this document.

Dated: June 18, 2026

/s/ Tucker Craven

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

CERTIFICATE OF SERVICE

I, Tucker Craven, hereby certify that, on June 18, 2026, I electronically filed the foregoing Motion for Leave to File Brief of *Amici Curiae* with the Clerk of the Illinois Appellate Court, Second Judicial District, 55 Symphony Way, Elgin, IL 60120, using the Odyssey eFileIL system. I further certify that I caused the foregoing to be served on June 18, 2026 on the following:

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