

IN THE APPELLATE COURT OF ILLINOIS
SECOND JUDICIAL DISTRICT

KELLY 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., et. al., Defendants-Appellants, and, CYBEAR INTERACTIVE, LLC, et. al., Respondents in Discovery	Appeal from the Circuit Court of Lake County, Illinois, Hon. Jorge L. Ortiz, Presiding No. 2022 LA 00000487 Consolidated for Pretrial Purposes with Case Nos. 22LA00000488, 22LA00000489, 22LA00000490, 22LA00000491, 22LA00000492, 22LA00000493, 22LA00000494, 22LA00000495, 22LA00000496, 22LA00000497, 22LA00000532, 24LA00000201, 24LA00000203, 24LA00000206, 24LA00000466, 24LA00000471, 24LA00000474, 24LA00000475, 24LA00000476, 24LA00000477, 24LA00000478, 24LA00000479, 24LA00000480, 24LA00000481
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MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE OF MONTANA AND 21 ADDITIONAL STATES

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Amici are sovereign states of the Union. Pursuant to Rule 345, they move for leave to file the attached amicus brief.

Amici seek to protect the Constitutional rights of their citizens to obtain firearms without undue burden and expense, free from burdens imposed by other states. Amici also seek to protect their sovereign interest in a national industrial base that supplies firearms to State militia and police forces at minimal cost.

In furtherance of those interests, Amici seek to provide background on the history and policies underlying the Protection of Lawful Commerce in Arms Act (“PLCAA”), Pub. L. No. 109-92, 119 Stat. 2095 (2005) (codified at 15 U.S.C. §§ 7901-03), as well as its statutory requirement for proximate causation. Amici also note grave Constitutional concern with Illinois purporting to regulate advertising showing lawful, constitutionally protected activity, especially to the extent Illinois purports to regulate that advertising in amici States.

CONCLUSION

For the foregoing reasons, the Court should ALLOW amici leave to file the attached brief. A proposed order is attached.

Respectfully submitted,

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I, C. Nicholas Cronauer, an attorney, certify that I have this day caused the Amicus Brief to be filed electronically with the Clerk of the Court and served via EFileIL to all counsel of record to their email addresses on file with the Court.

/s/ C. Nicholas Cronauer

IN THE APPELLATE COURT OF ILLINOIS
SECOND JUDICIAL DISTRICT

KELLY 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., et. al., Defendants-Appellants, and, CYBEAR INTERACTIVE, LLC, et. al., Respondents in Discovery	Appeal from the Circuit Court of Lake County, Illinois, Hon. Jorge L. Ortiz, Presiding No. 2022 LA 00000487 Consolidated for Pretrial Purposes with Case Nos. 22LA00000488, 22LA00000489, 22LA00000490, 22LA00000491, 22LA00000492, 22LA00000493, 22LA00000494, 22LA00000495, 22LA00000496, 22LA00000497, 22LA00000532, 24LA00000201, 24LA00000203, 24LA00000206, 24LA00000466, 24LA00000471, 24LA00000474, 24LA00000475, 24LA00000476, 24LA00000477, 24LA00000478, 24LA00000479, 24LA00000480, 24LA00000481
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NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: See attached service list

Please take notice that on April 8, 2026, the undersigned counsel filed with the Clerk of the Court of the Second Judicial District of the Appellate Court of Illinois, the attached Motion for Leave to File Brief of Amici Curiae of Montana and 21 Additional States and accompanying Brief of Amici Curiae. Copies of each of these documents are being served by the undersigned counsel via email to the undersigned counsel on the attached Service List also on this 8th day of April, 2026

Respectfully submitted,

/s/ C. Nicholas Cronauer

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**BRIEF AMICI CURIAE OF MONTANA
AND 21 ADDITIONAL STATES IN SUPPORT OF APPELLANTS**

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INTRODUCTION AND INTERESTS OF AMICI

Amici are sovereign states of the Union. They seek to protect the Constitutional rights of their citizens to obtain firearms without undue burden and expense, free from burdens imposed by other states. Amici also seek to protect their sovereign interest in a national industrial base that supplies firearms to State militia and police forces at minimal cost.

In furtherance of those interests, Amici seek to provide background on the history and policies underlying the Protection of Lawful Commerce in Arms Act (“PLCAA”), Pub. L. No. 109-92, 119 Stat. 2095 (2005) (codified at 15 U.S.C. §§ 7901-03). Amici also note grave Constitutional concern with Illinois purporting to regulate advertising showing lawful, constitutionally protected activity, especially to the extent Illinois purports to regulate that advertising in amici States.

PROCEEDINGS BELOW

This case stems from a mass shooting by a now-convicted perpetrator, Robert Crimo, III, who intentionally fired shots into a crowd in Highland Park, Illinois. A total of 79 Plaintiffs collectively filed 25 Complaints (consolidated by the Circuit Court for pretrial purposes) seeking to hold several individuals and entities liable, including Smith & Wesson Brands, Inc., Smith & Wesson Sales Company, and Smith & Wesson, Inc. (collectively “Smith & Wesson”). Plaintiffs assert claims against Smith & Wesson under the Illinois Consumer Fraud and

Deceptive Business Practices Act (“Consumer Fraud Act” or “CFA”), 815 ILCS 505/2 & 2DDDD, the Illinois Deceptive Trade Practices Act (“DTPA”), 815 ILCS 510/2, and common law claims of negligence and negligent and intentional infliction of emotional distress.

Smith & Wesson moved to dismiss all claims as, *inter alia*, precluded by the PLCAA. That motion was granted on April 1, 2025, with respect to Plaintiffs’ counts for violation of the CFA (with respect to deception, but not with respect to unfairness) and DTPA based on lack of standing, granted with respect to Plaintiffs’ counts for negligent entrustment, and denied with respect to all other counts against Smith & Wesson. As relevant here, the trial court held that the PLCAA did not bar Plaintiffs’ claims. Smith & Wesson sought appellate review, which this Court granted on six certified questions.

CERTIFIED QUESTIONS

1. Does the PLCAA bar Plaintiffs’ common law claims?
2. Can alleged violations of either the Illinois Consumer Fraud and Deceptive Trade Practices Act (“CFA”), 815 ILCS 505/2 or the Illinois Deceptive Trade Practices Act (“DTPA”), 815 ILCS 510/2 serve as a predicate statute that could deprive Smith & Wesson of PLCAA immunity?
3. Does the Firearms Industry Responsibility Act (“FIRA”), 815 ILCS 505/2DDDD, qualify as a predicate statute for exemption under the PLCAA, 15 U.S.C. § 7903(5)(A)(iii)?
4. Is the FIRA preempted by the PLCAA?

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

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

ARGUMENT

I. PLCAA grants Smith & Wesson immunity from Plaintiffs’ claims.

A. PLCAA is part of a carefully calibrated regulatory scheme by which Congress has precluded Plaintiffs’ causes of action

1. For decades, Congress has carefully balanced the people’s Second Amendment rights with the need to keep firearms away from criminals. That careful balancing started with Congress’s first foray into firearms regulation in response to the gangland violence of the 1930s. Even in responding to that pressing problem, Congress used a calibrated touch: it concluded heavy taxation of transfers of machineguns, short-barreled shotguns, short-barreled rifles, and silencers—together with the manufacturers, importers, and dealers of those weapons—was enough to achieve its aim. National Firearms Act of 1934, Pub. L. 73-474, 48 Stat. 1236. But Congress concluded regulation of pistols, revolvers, and sporting arms was unnecessary. H.R. Rep. 73-1780 at 1.

Four years later, Congress adjusted its calibrated view, requiring manufacturers and dealers of any firearms to obtain a license, but imposing little regulation other than record-keeping. Federal Firearms Act of 1938, Pub. L. 75-785, 52 Stat. 1250.

Congress pervasively regulated the firearms industry with the Gun Control Act of 1968, Pub. L. 90-168, 82 Stat. 1213, “the most comprehensive gun control law ever signed in this Nation’s history.” President Lyndon B. Johnson, Remarks Upon Signing the Gun Control Act of 1968, 2 Pub. Papers 1059, 1059 (Oct. 22, 1968). Still, Congress’s touch was measured. It expressly sought to prevent “crime and violence” without “plac[ing] any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity.” Anyone “engaged in the business” of manufacturing or dealing in firearms fell within the statute’s ambit. 82 Stat. at 1232. But Congress made clear the Act was “not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.” *Id.* at 1213-14.

By the 1980s, Congress concluded the Executive was overreaching in its zeal to regulate transfers of firearms. *See* Senate Subcommittee on the Constitution, *The Right to Keep and Bear Arms* 20-21 (Comm. Print Feb. 1982). Congress responded with the Firearm Owners Protection Act, Pub. L. 99-308,

100 Stat. 449 (1986). As part of that Act, Congress found that “the rights of citizens ... to keep and bear arms under the Second Amendment” required “correct[ion] of existing firearms statutes and enforcement policies,” and that additional legislation was needed to reaffirm the limited purpose of the Gun Control Act. 100 Stat. at 449 (codified at 18 U.S.C. §921 Note).

Congress continued to adjust its calibrated scheme to provide greater or lesser regulation as it believed necessary. In 1993, for example, Congress required background checks for those purchasing firearms. Brady Handgun Violence Prevention Act, Pub. L. 103-159, 107 Stat. 1536. But that, too, was tailored: the statute included a waiting period provision that was in effect only until the National Instant Criminal Background Check System could be implemented. *Id.* at 1536-37. Similarly, Congress enacted a ban on so-called assault weapons, Public Safety and Recreational Firearms Use Protection Act, Pub. L. 103-322 Title XI, 108 Stat. 1796, 1996 (1994), but allowed the ban to sunset when there was no evidence of a statistically significant impact on violent crime, *see, e.g.*, Robert A. Hahn et al., First Reports Evaluating the Effectiveness of Strategies for Preventing Violence: Firearms Laws, 52 RR-14 MMWR 11 (Oct. 3, 2003) (“insufficient evidence”); Lois K. Lee et al., Firearm Laws and Firearm Homicides – A Systematic Review, 177 JAMA Int. Med. 106, 117 (Jan. 2017) (“4 studies ... do not provide evidence that the ban was associated with a significant decrease in firearm homicides”).

2. Although anti-gun activists had some success with the Brady Bill and the Assault Weapons Ban, they were unhappy with Congress's measured approach. So the activists—often in concert with big city politicians—started filing suits against firearm manufacturers. They made no secret that their strategy was to bankrupt firearms manufacturers through a large volume of litigation asserting novel legal claims.

The first suit was by New Orleans, in 1998. It sought to hold gun manufacturers responsible for police and healthcare expenditures the city alleged were attributable to gun violence. Paul Dugan & Sandra Torry, *New Orleans Initiates Suit Against Gunmakers*, WASHINGTON POST, Oct. 30, 1998. Among other things, New Orleans argued the firearms industry had not invested in technology to make weapons safer. *Id.* “Guns must now become the next tobacco,” said Dennis Henigan, a lawyer in the case who worked for the Washington-based Center to Prevent Handgun Violence. *Id.*

Chicago quickly followed with a suit against 38 retailers, distributors and manufacturers, seeking \$433 million in damages. Raad Cawthon, *Chicago Sues Gun-makers*, PHILADELPHIA INQUIRER, Nov. 13, 1998. Mayor Richard Daley explained it was “not a product-liability suit,” adding that the “problem is the guns work all too well.” *Id.* Chicago instead alleged otherwise lawful sales of firearms created a public nuisance, including by supplying too many firearms to retailers *outside* of Chicago. *Id.* Daley opined that firearms “should not be on

the streets, not only in Chicago, but in America.” *Id.* The strategy, as Daly put it, was “to hit [the firearms industry] where it hurts, in the wallet.” *Id.*

Dozens more cities and politicians piled on. For example, the small city of Bridgeport, Connecticut filed suit in early 1999. Fred Musante, *After Tobacco, Handgun Lawsuits*, NEW YORK TIMES, Jan. 31, 1999, at 1. That suit went so far as to target trade associations for promoting the idea that handgun ownership is an effective means of personal protection. *Id.* Bridgeport’s mayor proudly proclaimed he was “creating law with litigation” because other views prevailed in the legislature and “kept [his preferred] laws from being passed.” *Id.*

Those lawsuits invoked a variety of theories, including: strict liability for abnormally dangerous activities or defective design, *Penelas v. Arms Tech., Inc.*, 778 So.2d 1042, 1043-44 (Fla. Dist. Ct. App. 2001); negligent marketing, *City of St. Louis v. Cernicek*, 145 S.W.3d 37, 38, 40 (Mo. Ct. App. 2004) (per curiam); negligent distribution, *District of Columbia v. Beretta, U.S.A., Corp.*, 847 A.2d 1127, 1131 (D.C. 2004); deceptive trade practices, see *Taurus Holdings, Inc. v. U.S. Fid. & Guar. Co.*, 367 F.3d 1252, 1252-53 (11th Cir. 2004) (per curiam); and public nuisance, *Sills v. Smith & Wesson Corp.*, 2000 WL 33113806, at *7 (Del. Super. Ct. Dec. 1, 2000).

Almost all were ultimately rejected by the courts, albeit after years of litigation. See, e.g., *Morial v. Smith & Wesson Corp.*, 785 So. 2d 1 (La. 2001); *City of Chicago v. Beretta U.S.A. Corp.*, 821 N.E. 2d 1099 (Ill. 2004); *Ganin v.*

Smith & Wesson Corp., 780 A.2d 98 (Conn. 2001). But the tidal wave of lawsuits had the desired effect. Manufacturers were being dropped by their insurers, some closed, and many were drowning in legal bills. Sharon Walsh, *Gun Industry Views Pact as Threat to Its Unity*, WASHINGTON POST, Mar. 17, 2000. A Washington lawyer involved in the city suits stated the obvious: “The legal fees alone are enough to bankrupt the industry.” *Id.* HUD Secretary Andrew Cuomo famously told the firearms industry that those who did not fall into line would suffer “death by a thousand cuts.” PLCAA: Hr’g Before the Subcomm. on Comm. & Admin. Law of the Comm. on the Judiciary, Ser. No. 109-21 (Mar. 15, 2005) at 30 (statement of Lawrence Keane).

The defense costs were staggering. In early 2005, Congress heard testimony that the firearms industry had spent over \$200 million defending against those lawsuits, many of which were carefully drafted to take them “outside liability insurance coverage in order to apply maximum pressure.” Ser. No. 109-21 at 30. That was in addition, of course, to the ever-present risk that “[o]ne abusive lawsuit ... could destroy a national industry and [effectively] deny citizens nationwide the right to keep and bear arms guaranteed by the Constitution.” 151 Cong. Rec. H8993 (Oct. 20, 2005).

3. Congress responded with the Protection of Lawful Commerce in Arms Act, Pub. L. 109-92, 119 Stat. 2095 (2005). PLCAA’s sponsor explained that “[b]ecause the anti-gun community didn’t get it their way, they ... determined that they could use the legal system, the court system, to bypass and suggest

that the third party, or the manufacturer, even though he or she was a law-abiding company and produced under the auspices of the Federal laws in responsible ways in that those products were sold through federally licensed firearms dealers, that wasn't good enough." 151 Cong. Rec. S9218 (July 28, 2005). "As a result, these legal, law-abiding manufacturers and citizens have increasingly had to pay higher and higher legal costs to defend themselves in lawsuit after lawsuit ... largely by municipalities who, obviously frustrated by gun violence in their communities, chose this route." *Id.* "Instead of insisting that their communities and prosecutors and law enforcement go after the criminal element, they ... looked for an easy way out." *Id.*

There is no doubt about PLCAA's purpose. Congress spelled it out. "Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals." 15 U.S.C. §7901(a)(3). Congress found such lawsuits were "an abuse of the legal system." *Id.* §7901(a)(6). Congress then identified the purpose of PLCAA as "[t]o prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended." *Id.* §7901(b)(1).

Consistent with that purpose, PLCAA bars lawsuits “against a manufacturer or seller of a [firearm], or a trade association, for damages ... or other relief, resulting from the criminal or unlawful misuse of a [firearm] by the person or a third party.” 15 U.S.C. §§ 7902, 7903. And that bar is not just a defense. The PLCAA confers a substantive “immunity” from “qualified civil liability actions” altogether. *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 299 (2025). The breadth of that immunity was made clear by PLCAA’s opponents:

Essentially, this bill prohibits any civil liability lawsuit from being filed against the gun industry for damages resulting from the criminal or unlawful misuse of a gun by a third party, with a number of narrow exceptions.

* * * * *

Countless experts have now said that this bill would stop virtually all of the suits against gun dealers and manufacturers filed to date which are based on distribution practice, many of which are vital to changing industry practice

109 Cong. Rec. S9070 (July 27, 2005).

B. Reading the “predicate exception” to permit Plaintiffs’ claims is inconsistent with Supreme Court precedent.

You’d think the broad immunity conferred by the PLCAA would have ended politically-motivated suits against the firearms industry. It did result in many of the lawsuits pending in 2005 being dismissed. *See, e.g., Iletto v. Glock, Inc.*, 565 F.3d 1126 (9th Cir. 2009). But anti-gun activists have continued to seek leverage through litigation, filing complaints that attempt to squeeze the same theories Congress targeted with the PLCAA into the Act’s narrow exceptions.

These consolidated actions exemplify that tactic. Plaintiffs rely on the so-called “predicate exception” to PLCAA in their attempt to circumvent the statute’s broad prohibition. That narrow exception allows firearm companies to be sued, but only if they “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).

1. The predicate exception cannot sensibly be read to exempt from the PLCAA’s immunity any and all statutes that apply to firearms or the firearms industry. Indeed, just last term, the Supreme Court made clear that the PLCAA’s exceptions must not be construed in “such a capricious way” that they would “swallow most of the rule.” *Smith & Wesson*, 605 U.S. at 299. There’s nothing novel about that. “In construing provisions ... in which a general statement of policy is qualified by an exception,” the Supreme Court “usually read[s] the exception narrowly in order to preserve the primary operation of the provision.” *Comm’r v. Clark*, 489 U.S. 726, 739 (1989). The Supreme Court has also made clear that it’s improper to read a federal statute in ways that “would make it trivially easy for States to undermine the Act—indeed, to wholly defeat it.” *Kindred Nursing Ctrs. Ltd. P’ship v. Clark*, 581 U.S. 246, 255 (2017). Yet that’s what Plaintiffs ask.¹

¹ The Supreme Court issued its opinion in *Smith & Wesson* on June 5, 2025. The district court thus did not have the benefit of the Supreme Court’s guidance.

2. We also don't have to guess at the type of statutes Congress had in mind for the predicate exception. That's because Congress provided examples:

(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under Federal or State law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of [18 U.S.C. 922.]

15 U.S.C. §7903(5)(A)(iii).

There would have been no need to provide those examples if the exception was meant to reach any law that might conceivably apply to the firearms industry, as that is hardly a concept that requires illumination. The whole point of providing examples is to inform the meaning of general phrases like “applicable to”—which is why interpretive canons teach that general language must be “construed to embrace only objects similar in nature to those objects enumerated.” *Wash. State Dep't of Soc. & Health Servs. v. Guardianship Est. of Keffeler*, 537 U.S. 371, 384 (2003) (internal quotation marks omitted). And the examples Congress supplied in the predicate exception—false record entries and selling to a prohibited person—look nothing like Plaintiffs' claims.

3. Congress also made clear that not just any statutory violation will suffice. The predicate exception covers only actions predicated on a “knowing” violation of such a statute that was “a proximate cause” of the plaintiff’s alleged injury. 15 U.S.C. §7903(5). The requirement for proximate causation is determinative here.

“The general tendency of the law, in regard to damages at least, is not to go beyond the first step.” *S. Pac. Co. v. Darnell-Taenzer Lumber Co.*, 245 U.S. 531, 533 (1918). The Supreme Court has relied on that principle to limit federal law, even where the statutory provision nominally cover indirect injuries. *Associated Gen. Contractors v. Cal. State Council of Carpenters*, 459 U.S. 519, 532-533 (1983). Indeed, the Supreme Court assumes Congress requires proximate causation—not merely “but-for” causation. *See, e.g., Holmes v. SIPC*, 503 U.S. 258, 265-266 (1992). And under federal law, proximate causation requires “some direct relation between the injury asserted and the injurious conduct alleged.” *Id.* at 268. A link that is “too remote,” “purely contingent,” or “indirec[t]” is insufficient. *Id.* at 271, 274; *see also Hemi Grp., LLC v. City of New York*, 559 U.S. 1, 11 (2010) (finding lack of proximate causation: “[T]he conduct directly causing the harm was distinct from the conduct giving rise to the fraud.”).

PLCAA doesn’t require speculation about the application of those principles. The legislative history of the PLCAA directly cites *Holmes* and discusses it in detail. H.R. Rep. 108-59 (2003) at 13-14. Congress then included

the requirement for proximate causation in the text of PLCAA’s predicate exception. “[W]hen Congress ‘borrows terms of art in which are accumulated the legal tradition and meaning of centuries of practice, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word.’” *Lackey v. Stinnie*, 604 U.S. 192, 200 (2025) (quoting *United States v. Hansen*, 599 U.S. 762, 774 (2023)).

The district court tried to circumvent that by pointing to Illinois cases on proximate causation. But Illinois law is all-but-irrelevant to the meaning of proximate causation in a federal statute like PLCAA. See *Jerome v. United States*, 318 U.S. 101, 104 (1943). Under federal law, Plaintiffs’ injuries are too remote and contingent from the purported violations to satisfy the predicate exception.

II. The Illinois Firearm Industry Responsibility Act raises grave constitutional concerns.

A final note on FIRA, commercial speech, and interstate regulation. What Plaintiffs try to attack as advocating illegal conduct actually advertises entirely lawful activity. Some of the cited advertisements facially appeal to law enforcement professionals, including in amici States. And at least some appear intended for competitive shooters, as evidenced by references to Jerry Miculek, whose fame extends well-beyond his native Louisiana. Close inspection reveals that three of the advertisements Plaintiffs rely on actually show a firearm at a shooting range. Notwithstanding the vapors of activists, none of those activities are illegal in amici States. Rather, they are both common and actively

encouraged. Indeed, it's dubious any of those activities are illegal even in Illinois, and even under the vague standards of 815 ILCS 505/2DDDD.

Those activities are also protected by the Second Amendment. “The right to possess firearms for protection implies a corresponding right to acquire and maintain proficiency in their use; the core right wouldn't mean much without the training and practice that make it effective.” *Ezell v. City of Chicago*, 651 F.3d 684, 704 (7th Cir. 2011). “[T]o bear arms implies something more than the mere keeping; it implies the learning to handle and use them in a way that makes those who keep them ready for their efficient use; in other words, it implies the right to meet for voluntary discipline in arms.” *District of Columbia v. Heller*, 554 U.S. 570, 617-618 (2008) (quoting Thomas Cooley, General Principles of Constitutional Law at 271 (1880)). “[G]eneralized assertions about the developmental immaturity” don't change that fact. *Ezell v. City of Chicago*, 846 F.3d 888, 898 (7th Cir. 2017).

Amici emphasize the grave Constitutional questions if Illinois purports to regulate lawful speech in other states simply on the basis of it being “reasonably foreseeable that the [associated] item would be possessed in Illinois.” 815 ILCS 505/2DDDD. The trial court was decades late in simply intoning *Central Hudson Gas & Electric Corp. v. PSC*, 447 U.S. 557 (1980), to uphold FIRA's content-based regulation of speech. See *NIFLA v. Becerra*, 585 U.S. 755, 785 (2018) (Breyer, J., dissenting and faulting majority for not applying *Central Hudson* to a content-based regulation of speech); *Sorrell v.*

IMS Health Inc., 564 U.S. 552 (2011) (Breyer, J., dissenting and faulting majority for not applying *Central Hudson* to content- and speaker-based restrictions on the sale of information). Even if *Central Hudson* still applies, it is “the party seeking to uphold a restriction on commercial speech [that] carries the burden of justifying it.” *Thompson v. W. States Med. Ctr.*, 535 U.S. 357, 373 (2002) (affirming unconstitutionality of restriction on advertising).

CONCLUSION

For the foregoing reasons, the trial court should be REVERSED and Plaintiffs’ claims DISMISSED as subject to PLCAA immunity.

Respectfully submitted,

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RULE 341 CERTIFICATE OF COMPLIANCE FOR AMICUS BRIEF

I, C. Nicholas Cronauer, an attorney, certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or 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 3,789 words.

/s/

CERTIFICATE OF SERVICE

I, C. Nicholas Cronauer, an attorney, certify that I have this day caused the Amicus Brief to be filed electronically with the Clerk of the Court and served via EFileIL to all counsel of record to their email addresses on file with the Court:

/s/ C. Nicholas Cronauer

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No. 2-25-0274

IN THE APPELLATE COURT OF ILLINOIS
SECOND JUDICIAL DISTRICT

KELLY 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.,
et. al.,

Defendants-
Appellants,

and,

CYBEAR INTERACTIVE, LLC, et.
al.,

Respondents in
Discovery

Appeal from the Circuit Court
of Lake County, Illinois,

Hon. Jorge L. Ortiz, Presiding

No. 2022 LA 00000487

Consolidated for Pretrial
Purposes with Case Nos.

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24LA00000478, 24LA00000479,
24LA00000480, 24LA00000481

ORDGER ALLOWING LEAVE TO FILE BRIEF AMICI CURIAE OF
MONTANA ET AL

The motion of the State of Montana et al for leave to file a brief
amici curiae in support of appellants is ALLOWED.

SO ORDERED.

Dated

Justice

Justice

Justice

Justice

No. 2-25-0274

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**ORDGER ALLOWING LEAVE TO FILE BRIEF AMICI CURIAE OF
MONTANA ET AL**

**The motion of the State of Montana et al for leave to file a brief
amici curiae in support of appellants is DENIED.**

SO ORDERED.

Dated

Justice

Justice

Justice

Justice