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STATE OF MINNESOTA DISTRICT COURT

COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

Case Type: Other Civil

State of Minnesota by its Attorney General, Keith Ellison,

Plaintiff,

vs.

Glock, Inc. and Glock Ges.m.b.H.,

Defendants.

Court File No. 27-CV-24-18827
Hon. Christian M. Sande

STATE'S MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT GLOCK, INC.'S MOTION TO STAY DISCOVERY

The State of Minnesota brought this lawsuit to hold Defendant Glock, Inc. ("Glock"), and its Austrian parent, Defendant Glock Ges.m.b.H., accountable for *their own* conduct in facilitating the conversion of Glock handguns into illegal machine guns and fueling the demand for those guns. Glock handguns, which Glock has known are susceptible to easy conversion to machine guns since at least 1987, pose a continuing and ongoing threat to public safety. The State's lawsuit alleges that Glock's misconduct violates Minnesota law.

Glock wants to delay the State's lawsuit because Glock intends to argue to the Court that federal law provides sweeping and complete immunity to Glock for its misconduct. But the federal law Glock relies on, the Protection of Lawful Commerce in Arms Act ("PLCAA"), does no such thing. To the contrary, PLCAA provides only limited immunity from liability for the "harm *solely* caused by the criminal or unlawful misuse of firearms products . . . by others." 15 U.S.C. § 7901(b)(1) (emphasis added). Glock wrongly characterizes the application of PLCAA to bar the State's action as *fait accompli*, when in fact the State is likely to prevail under the language of PLCAA.

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Glock's motion to dismiss is not likely to prevail. And because Glock has not asserted any other hardship beyond the ordinary discovery obligations borne by every litigant in a Minnesota court, Glock has not demonstrated good cause to support staying this case while the Court considers the motion to dismiss. A stay would only benefit Glock by hindering the State's ability to obtain complete and timely relief for the public. Meanwhile, the threat of fully automatic gunfire from Glock handguns in Minnesota continues unabated.

For all these reasons, and those set forth below, the Court should deny Glock's Motion to Stay Discovery.

PROCEDURAL BACKGROUND

The State filed this action on December 12, 2024. Counsel for Glock, Inc.[1] requested an extension to the deadline to answer or otherwise respond to the Complaint, and the State agreed to extend the deadline from January 2, 2025 to February 3, 2025. On February 3, Glock filed its notice of motion and motion to dismiss, citing Rule 12.02(e), and noticed a hearing date of May 19, 2025. Def. Notice of Mot. & Mot. to Dismiss, Index No. 15 (Feb. 3, 2025).

The Minnesota Rules of Civil Procedure require the parties to hold a discovery conference "within 30 days from the initial due date for an answer," Minn. R. Civ. P. 26.06(a), and file a discovery plan within 14 days of that conference. Minn. R. Civ. P. 26.06(b). The parties held a discovery conference on February 17, 2025, thereby obligating the parties to file the joint discovery plan by March 3, 2025. The parties then have until April 3, 2025 to make initial

[1] The State is serving Glock Ges.m.b.H. in compliance with the means authorized by the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents. *See* Minn. R. Civ. P. 4.04(c)(1). The translated Summons and Complaint were delivered to the Central Authority in Vienna, Austria on February 13, 2025, and the State anticipates completion of service on Glock Ges.m.b.H. in the near future.

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disclosures, absent an alternative stipulation by the parties. Minn. R. Civ. P. 26.01(a)(3). The State has not yet served Glock with any discovery requests or deposition notices.

On Friday, February 14, 2025, Glock asked the State to agree to stay all discovery deadlines until resolution of Glock's motion to dismiss. The State declined. The parties discussed Glock's request for a stay on February 17, 2025 during the discovery conference. Glock filed this motion to stay discovery shortly after the conference. On Tuesday, February 18, 2025 the Court held a status conference and scheduled this motion for a hearing on March 7, 2025.

ARGUMENT

I. ABSENT GOOD CAUSE, DISCOVERY SHOULD PROCEED.

The Minnesota Rules of Civil Procedure allow discovery to proceed any time after the parties have "conferred and prepared a discovery plan" required by Rule 26.06(c). Minn. R. Civ. P. 26.04(a). A party must show good cause to depart from this rule. *United Healthcare Servs., Inc. v. Fremont Industries, Inc.*, No. 27-CV-17-16231, 2018 WL 11000608, *2 (Minn. 4th Jud. Dist. Ct., Mar. 5, 2018) (Brasel, J.) ("Good cause must be shown for a court to grant a motion to stay discovery."). The moving party bears a "high burden" to demonstrate "a specific hardship or inequity that would result if required to proceed." *Christopherson v. Cinema Ent. Corp.*, 2024 WL 1120925, at *2 (D. Minn., Mar. 6, 2024).[2]

Although the Court has discretion to limit discovery, any such limit "must rest on sound policy grounds." *United Healthcare Servs., Inc.*, 2018 WL 11000608 at *2 (citations omitted). Good cause, in this context, means demonstrating "*particular* facts or circumstances that make

[2] The State relies on federal caselaw herein because Rule 26.03 is substantially identical to Federal Rule of Civil Procedure 26(c), and "[w]here the language of the Federal Rules of Civil Procedure is similar to language in the Minnesota civil procedure rules, federal cases on the issue are instructive." *See T.A. Schifsky & Sons, Inc. v. Bahr Const., LLC*, 773 N.W.2d 783, 788 (Minn. 2009).

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responding to discovery . . . *unusually* burdensome or prejudicial beyond the usual case of this nature." *TE Connectivity Networks*, *Inc. v. All Systems Broadband, Inc.*, Civil No. 13-1356 ADM/FLN, 2013 WL 4487505, *2 (D. Minn., Aug. 20, 2013) (emphasis added); *see also, e.g. East Coast Test Prep, LLC v. Allnurses.com, Inc.*, Civil No. 15-3705 (JRT/JSM), 2016 WL 6997117, * 4 (D. Minn., Feb. 22, 2016) (explaining that Defendant "submitted no evidence regarding the burden to it or the expense it would incur if it was required to respond" to discovery and provide initial disclosures while motion to dismiss was pending in denying a motion to stay discovery).

Glock argues the Court should halt discovery because Glock's motion to dismiss could dispose of the State's claims entirely. Def. Mem., Index No. 28, at 5. Setting aside the merits of Glock's yet-to-be-briefed motion, it is "black letter law" that "the mere filing of a motion to dismiss the complaint does not constitute 'good cause' for the issuance of a discovery stay." *Eich v. City of Burnsville*, No. 19HA-CV-15-2668, 2015 WL 13345635, *2 (Minn. Dist. Ct. Dec. 15, 2015) (quoting *TE Connectivity*, 2013 WL 4487505, *2). The "time and expense" required of Glock to perform its ordinary discovery obligations "are not a sufficient basis to stay discovery while the motion to dismiss is pending." *United Healthcare Servs.*, 2018 WL 11000608, *2 (citing *Radke v. County of Freeborn*, 676 N.W.2d 295, 300 (Minn. App. 2004)). Glock fails to identify any discovery burdens that are different from, and greater than, the ordinary litigation burdens encountered by every litigant in Minnesota courts.

Further, Glock's motion asks the Court to delay "all discovery," not just written discovery requests. This categorical stay would relieve Glock from producing routine initial disclosures that would assist the parties in fashioning written discovery. *See* Minn. R. Civ. P. 26.01(a)(3) (requiring the parties to serve initial disclosures 60 days after the initial due date for an answer). Glock's

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requested stay would also relieve Glock from the obligation to work with the State to jointly submit a protective order and protocol for electronically stored information for Court approval. Glock asks the Court to put even these preliminary discovery steps on pause for the next three to six months while the Court considers Glock's motion to dismiss, further compounding the delay in a case that will be more than five months old before Glock's motion to dismiss is even heard.

In short, Glock's motion to dismiss does not entitle it to an automatic stay of discovery. Glock has not identified any "particular facts or circumstances that make responding to discovery unusually burdensome or prejudicial," *TE Connectivity*, 2013 WL 4487505, *2. Thus, the Court should allow this case to move forward at the ordinary pace established by the Minnesota Rules of Civil Procedure.

II. GLOCK HAS NOT SHOWN GOOD CAUSE TO STAY DISCOVERY.

Beyond the ordinary work associated with discovery, Glock offers additional arguments to stay discovery under Minn. R. Civ. P. 26.03. But none of these arguments provide sufficient good cause to halt this case.

First, Glock asserts that its claimed immunity under PLCAA entitles Glock to special protection from discovery in this lawsuit. Def. Mem. at 6-7. It is proper for Courts to "peek" at the merits of an underlying dispositive motion to determine whether a complaint is "clearly without merit" or the dispositive motion will likely resolve the entire litigation.[3] *TE Connectivity*, 2013 WL 4487505, *2; *see also United Healthcare Servs, Inc.*, 2018 WL 11000608, *2. Here, Glock's

[3] Glock has not yet filed a memorandum in support of its motion to dismiss. As to the non-PLCAA bases for dismissing the Complaint, Glock provides only conclusory assertions with few citations to authority. Def. Mem. at 9. None of these arguments are likely to succeed given the detailed allegations in the Complaint and Minnesota's notice pleading standard under Rule 8. *See Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 602 (Minn. 2014) ("A claim is sufficient against a motion to dismiss if it is *possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded*." (quotation omitted) (citation omitted)).

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PLCAA defense is unlikely to succeed. PLCAA only provides firearms manufacturers with *limited* immunity from civil liability for the "harm *solely* caused by the criminal or unlawful misuse of firearms products . . . by others." 15 U.S.C. § 7901(b)(1) (emphasis added). PLCAA expressly *does not* bar claims based on a defendant's violations of state law. *See Minnesota v. Fleet Farm LLC*, 679 F.Supp.2d 825, 840-41 (D. Minn. 2023) (holding that the State's claims fit within PLCAA exceptions and that "only one claim needs to survive the preemption analysis for the entire suit to move forward"). Indeed, courts regularly reject motions to dismiss asserting PLCAA-based defenses. *Id.; New York v. Arm or Ally, LLC*, 718 F.Supp.3d 310, 332-33 (S.D.N.Y. 2024); *Getz v. Sturm, Ruger & Co.*, No. 3:23-CV-1338(RNC), 2024 WL1793670, *8 (D. Conn. Apr. 25, 2024); *Estados Unidos Mexicanos v. Diamondback Shooting Sports Inc., et al.*, 4:22-cv-00472-RM, 2024 WL 1256038,*8-10 (D. Ariz. Mar. 25, 2024); *Soto v. Bushmaster Firearms International, LLC*, 202 A.3d 262 (Conn. 2019); *Williams v. Beemiller, Inc*., 100 A.D.3d 143, 151 (N.Y. App. Div. 2012), *amended by* 103 A.D.3d 1191 (N.Y. App. Div. 2013). Like those cases, the State's claims against Glock fall outside PLCAA's limited protections, and a motion to dismiss on the basis of PLCAA will fail. *See* 15 U.S.C. § 7903(5)(A)(i)-(vi) (setting forth six exceptions to PLCAA).

Second, Glock cites no caselaw to support the proposition that PLCAA is the type of "immunity statute" that compels the Court to stay discovery. The cases cited by Glock have nothing to do with PLCAA—much less hold that a PLCAA defense must be resolved before discovery ensues. *See Saucier v. Katz*, 533 U.S. 194 (2001) (addressing, in the context of a Fourth Amendment claim, when a qualified immunity defense should be considered by a court); *Pearson v. Callahan*, 555 U.S. 223 (2009) (same); *Phoenix Consulting, Inc. v. Republic of Angola*, 216 F.3d 36 (D.C. Cir. 2000) (addressing the Foreign Sovereign Immunities Act). To the contrary, a federal district court recently denied a motion to stay discovery in a case where firearms industry

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defendants have raised PLCAA as a defense. *See Estados Unidos Mexicanos v. Diamondback Shooting Sports Inc.*, 2025 WL 307051, slip op. at 2 (D. Ariz. Jan. 27, 2025). The court allowed discovery to proceed despite the fact that the Supreme Court is reviewing a related case that also implicates PLCAA—demonstrating that the full scope of a PLCAA defense does not need to be resolved for discovery to begin. *See id.* (referring to *Smith & Wesson v. Estados Unidos Mexicanos*, 145 S.Ct. 116 (Oct. 4, 2024) (granting certiorari)).

Third, contrary to Glock's contention, a stay would prejudice the State and would not actually "sav[e] . . . the time and expense of engaging in unnecessary discovery." Def. Mem. at 11. Such delay only benefits Glock. As a practical matter, the stay that Glock seeks could delay the start of *any* discovery to mid-September 2025, more than nine months after the Complaint was filed. As the Court is aware, this is a case that the State anticipates will involve eighteen months of fact and expert discovery and significant motion practice. Delaying the start of *all* discovery processes by such a long time would necessarily postpone the remainder of the litigation as well. Given the ongoing, serious harm to public safety the State seeks to redress in this civil law enforcement lawsuit, such a long delay in resolving the State's claims is prejudicial. *Cf. State v. Standard Oil Co.*, 568 F. Supp. 556, 563 (D. Minn. 1983) ("A state maintains a quasi-sovereign interest . . . where the health and well-being of its residents is affected."); *Weckerling v. McNiven Land Co.*, 42 N.W.2d 701, 704 (Minn. 1950) ("Justice delayed is justice denied").

In short, none of the reasons Glock offers in support of staying discovery in this case show that Glock has suffered "a specific hardship or inequity that would result if required to proceed." *Christopherson*, 2024 WL 1120925, at *2. Accordingly, Glock's Motion to Stay should be denied.

CONCLUSION

For the foregoing reasons, the Court should deny Glock's Motion to Stay.

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MINN. STAT. § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minn. Stat. § 549.211.

/s/ Jacob Harris
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