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June 20, 2025

Via eFile and eServe

The Honorable Christian Sande
Minnesota Judicial Branch
Fourth Judicial District
300 South Sixth St
Minneapolis, MN 55487
4thJudgeSandeChambers@courts.state.mn.us

Re: *State of Minnesota vs. Glock, Inc. & Glock Ges.m.b.H.*, 27-CV-24-18827

Dear Judge Sande:

The State of Minnesota submits this letter brief regarding the United States Supreme Court's decision in *Smith & Wesson v. Estados Unidos Mexicanos*, No. 23-1141, 605 U.S. ____ (2025), in accordance with the Court's June 6, 2025, Order for Written Submissions.

The *Smith & Wesson* decision has no impact on any of the issues raised by Defendants' pending Motion to Dismiss. First, the decision's analysis of federal aiding-and-abetting law is not relevant to this action. This action fits within the predicate exception of the Protection of Lawful Commerce in Arms Act because the action is predicated on violations of three Minnesota consumer protection statutes and Minnesota's statute prohibiting machine guns—not the federal criminal aiding-and-abetting statute alleged to be violated in *Smith & Wesson*. In addition, the State's aiding-and-abetting claim is based on Minnesota law—not federal law. Second, the decision did not address the issue of proximate cause.

I. *Smith & Wesson* has no impact on the issues of whether the State's claims satisfy PLCAA's predicate exception or whether the State's aiding-and-abetting claim is sufficiently pled under Minnesota law.

In *Smith & Wesson*, the Supreme Court held that Mexico's action did not satisfy PLCAA's predicate exception because Mexico did not adequately plead aiding-and-abetting under federal law: "[W]e find that Mexico has not plausibly alleged aiding and abetting on the manufacturers' part." Slip Op. at 7. To reach this holding, the Supreme Court evaluated the requirements of the federal criminal aiding and abetting statute, 18 U.S.C. § 2(a), and federal aiding-and-abetting law:

[A]iding and abetting can qualify as a PLCAA predicate violation by virtue of another law assimilating an accomplice's liability to a principal's. The federal statute generally accomplishing that task is 18 U. S. C. §2(a) *So principles of aiding and abetting from the criminal law—establishing what counts as aiding and*

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abetting and what does not—may determine whether a plaintiff can satisfy PLCAA’s predicate exception and thus proceed with a civil suit otherwise barred.

Slip Op. at 2–3 (emphasis added). Thus, the Supreme Court evaluated the requirements of federal aiding-and-abetting law, but decided nothing about the scope of PLCAA or the scope of PLCAA’s predicate exception.

In this action, the State does not allege any violations of federal aiding-and-abetting law or the federal criminal aiding-and-abetting statute, 18 U.S.C. § 2(a). Instead, the State alleges violations of three Minnesota consumer protection statutes (the Prevention of Consumer Fraud Act, Deceptive Trade Practices Act, and False Statement in Advertisement Act) and Minnesota’s prohibition of machine guns (Minn. Stat. § 609.67). Because this action is predicated on such state-law statutory violations, this action fits squarely within PLCAA’s predicate exception: “an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought.” 15 U.S.C. § 7903(5)(A)(iii). The Supreme Court’s analysis and conclusion in *Smith & Wesson* that Mexico’s allegations of violations of 18 U.S.C. § 2(a) did not satisfy the predicate exception are not relevant to the applicability of PLCAA’s predicate exception in this case.

Nor is the Supreme Court’s analysis of *federal* aiding-and-abetting law in *Smith & Wesson* relevant to this action in any other way. See Slip Op. at 7-14 (discussing “[f]ederal aiding-and-abetting law” and evaluating whether Mexico’s complaint satisfied the requirements of federal aiding-and-abetting law, including as discussed in *Twitter, Inc. v. Taamneh*, 598 U.S. 471, 493 (2023)). If Glock suggests that *Smith & Wesson*’s analysis of *federal* aiding-and-abetting law applies to this action and to Glock’s arguments that the State fails to state a claim, Glock would be wrong. One of the State’s seven claims in this action is an aiding and abetting claim (Count II). But Count II is based on the requirements for an aiding and abetting claim under Minnesota common law. See *Witzman v. Lehrman, Lehrman & Flom*, 601 N.W.2d 179, 187 (Minn. 1999) (setting forth the three requirements for a claim of aiding and abetting the tortious conduct of another under Minnesota law). Unlike the claims in Mexico’s lawsuit, Count II in this action is not based on 18 U.S.C. § 2(a) or any other federal standards. Federal aiding-and-abetting law and its requirements are simply not at issue in this action. Accordingly, the Supreme Court’s analysis of the requirements for federal aiding-and-abetting liability do not apply to this case, and the Supreme Court did not address the standards for aiding-and-abetting liability under Minnesota state law.

Finally, the pleading standard in Minnesota remains notice pleading, rather than the plausibility standard upon which the Supreme Court based its analysis of Mexico’s complaint. See Slip Op. at 7 (“Mexico’s complaint survives PLCAA only if, in accord with usual pleading rules, it has plausibly alleged conduct falling within the statute’s predicate exception.”) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009)); *id.* at 14 (“Mexico’s complaint, for the reasons given, does not plausibly allege such aiding and abetting.”). For this additional reason, *Smith & Wesson* has no impact on this action.

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II. *Smith & Wesson* has no impact on the issue of proximate cause in this action because *Smith & Wesson* did not address the issue of proximate cause.

In *Smith & Wesson*, the Supreme Court did not address the issue of proximate cause that had been raised by petitioners: “We need not address the proximate cause question, because we find that Mexico has not plausibly alleged aiding and abetting on the manufacturers’ part.” Slip Op. at 7. Accordingly, the decision has no bearing on the proximate cause issue raised by Defendants’ pending motion to dismiss in this case.

Sincerely,

/s/ **Katherine Moerke**

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