

PSTATE OF INDIANA)
)
COUNTY OF LAKE)

SS: IN THE LAKE SUPERIOR COURT

CITY OF GARY)
)
Plaintiff,)
)
v.)
)
SMITH & WESSON CORP. *et al.*,)
)
)
Defendants.)

CAUSE NO. 45D01-1211-CT-00233

DEFENDANT MANUFACTURERS' JOINT MOTION
FOR JUDGMENT ON THE PLEADINGS

Defendants Smith & Wesson Corp., Sturm, Ruger & Company, Inc., Colt's Manufacturing Company LLC, Beretta U.S.A. Corp., Phoenix Arms, Glock, Inc., Beemiller, Inc. d/b/a Hi-Point Firearms, Browning Arms Corp, and Taurus International Manufacturing, Inc. (hereafter "Manufacturer Defendants") jointly move for judgment on the pleadings under Indiana Trial Rule 12(C) as to Plaintiff City of Gary's First Amended Complaint.

1. On March 15, 2024 Governor Holcomb signed House Enrolled Act No. 1235 into law. A true and correct copy of the bill is attached as Exhibit A.

2. House Enrolled Act No. 1235 enacted a new provision in the Indiana Code, Ind. Code § 34-12-3.5. The act was declared an emergency and became effective immediately upon becoming law.

3. In relevant part, the law provides as follows:

Sec. 3. (a) Notwithstanding IC 34-12-3 or any other law, only the state of Indiana may bring or maintain an action by or on behalf of a

political subdivision against a firearm or ammunition manufacturer, trade association, seller, or dealer, concerning the:

- (1) design;
- (2) manufacture;
- (3) import;
- (4) export;
- (5) distribution;
- (6) advertising;
- (7) marketing;
- (8) sale; or
- (9) criminal, unlawful, or unintentional use;

of a firearm, ammunition, or a component part of a firearm or ammunition.

(b) Except as provided in subsection (c), notwithstanding IC 34-12-3 or any other law, a political subdivision may not independently bring or maintain an action described in subsection (a).

Ind. Code § 34-12-3.5-3(a)-(b).

4. The authority to bring or maintain such actions in Indiana is expressly reserved to the State of Indiana. Ind. Code § 34-12-3.5-3(a). A political subdivision is expressly prohibited from bringing or maintaining such actions on its own behalf, except in limited circumstances not pertinent here. Ind. Code § 34-12-3.5-3(b)-(c). The provisions of Section 34-12-3.5 apply retroactively to actions filed by a political subdivision “before, after, or on August 27, 1999.” Ind. Code § 34-12-3.5-1. Therefore, those provisions apply to this case.

5. The City of Gary’s First Amended Complaint seeks relief based on the Manufacturer Defendants’ alleged conduct in designing, manufacturing, distributing, advertising, marketing, and selling firearms. The City does not have the legal authority under Indiana law to independently maintain such an action, and its First Amended Complaint should be dismissed, with prejudice.

WHEREFORE, the Manufacturer Defendants respectfully request that judgment be entered in their favor, and the City of Gary's First Amended Complaint be dismissed with prejudice pursuant to Indiana Trial Rule 12(C).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on March 18, 2024, I electronically filed and served the foregoing document via the Indiana E-Filing System (IEFS) and/or email upon the following persons:

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