



Supreme Court Agrees to Review Mexico's Lawsuit Against American Gunmakers

The Supreme Court [agreed on Monday](#) to take under review the First Circuit Court of Appeals ruling that the federal law protecting America's gun industry from frivolous (and enormously expensive) lawsuits has a crack in it. The appeals court reversed a lower court's ruling upholding that federal law, ruling instead that Mexico had a "plausible" claim that those gunmakers' design, marketing, distribution, and manufacturing decisions were sufficiently tied to Mexico's horrendous rate of gun violence (15 times that of the United States!) to negate the federal law's protections.

Therefore, the protections provided by Congress in 2005 when it enacted the Protection of Lawful Commerce in Arms Act (PLCAA) were null and void. That law is "an Act to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others."

The Ninth Circuit, whose panel of 11 judges include nine who were appointed by Presidents Clinton, Obama, or Biden, found a crack in the law, and forced it open to allow the case brought by Mexico against America's gunmakers to continue. It ruled that gunmakers' decisions were a "proximate cause" of Mexico's gun violence.

Lawfare, Plain and Simple

The case is frivolous, but expensive. Remington Arms went broke paying out hundreds of millions in claims against it. Mexico seeks the same result for the entire American gun industry.

In Smith & Wesson's petition for review by the Supreme Court (which the high court accepted on Monday), it claimed:

Mexico's suit has no business in an American court.

The federal Protection of Lawful Commerce in Arms Act (PLCAA) precludes civil suits seeking to hold firearms companies liable for harms stemming from the downstream criminal misuse of their products.



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And it is nearly impossible to imagine a suit that is more clearly barred by PLCAA than this one.

The district court agreed, dismissing this case in full.

But the [liberal] First Circuit [Court of Appeals] reversed. It held that Mexico's lawsuit qualified for an exception to PLCAA, which narrowly authorizes suits alleging knowing violations of firearms laws that proximately cause a plaintiff's injuries.

To fit within that exception, the First Circuit held that Mexico plausibly alleged America's firearms companies have violated the federal law against aiding and abetting firearms trafficking—and that their regular business practices are the proximate cause of the many diffuse harms and costs that Mexico incurs from cartel violence.

Enormous Implications

The Smith & Wesson petition pointed out the implications should the Supreme Court uphold the First Circuit Court's ruling:

The stakes of this case underscore why review is needed.

Absent this Court's intervention, Mexico's multi-billion-dollar suit will hang over the American firearms industry for years, inflicting costly and intrusive discovery at the hands of a foreign sovereign that is trying to bully the industry into adopting a host of gun-control measures that have been repeatedly rejected by American voters.

Worse, so long as the decision [by the First Circuit] remains good law, scores of similar suits are destined to follow from other governments, both foreign and domestic — all seeking to distract from their own political failings by laying the blame for criminal violence at the feet of the American firearms industry.

Even if ultimately unsuccessful, the costs of that litigation will be devastating — not only for defendants, but more importantly for the millions of law-abiding Americans who rely on the firearms industry to effectively exercise their Second Amendment rights.

This is why Congress enacted PLCAA in the first place. As Smith & Wesson noted,

This type of lawfare is exactly what Congress enacted PLCAA to avoid.

At bottom, this case reduces to a clash of national values: Mexico makes no secret that it abhors this country's approach to firearms, and that it wants to use the American court system to impose domestic gun controls on the United States that the American people themselves would never accept through the ordinary political process.

But even though that grievance is placed under the lettering of a complaint, and was filed on a docket, it has no basis in law.

This Court's review is badly needed.

The First Circuit's reversal opens the door to other lawsuits against the American gun industry, bankrupting them over time. It also could invite lawsuits against other American companies. Consider



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breweries and auto manufacturers, who create products that cause drunk drivers to inflict horrific damage, pain, and suffering on innocents.

The Supreme Court has the opportunity to shut down forever such lawfare.

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