

From: [Smith, Rachel E.](#)
To: [Roy, Matthew](#)
Subject: Documents responsive to public records request
Date: Wednesday, February 16, 2022 4:03:42 PM
Attachments: [2022.02.16 Smith PRA Response.pdf](#)

Dear Mr. Roy,

Attached please find records in response to your Public Records Act request dated February 11, 2022.

Some records – specifically, emails between attorneys in the Vermont Attorney General’s Office – have been withheld pursuant to 1 V.S.A. § 317(c)(3) and (4) as they are attorney work product.

If you feel information or records have been withheld in error, you may appeal to the Deputy Attorney General Josh Diamond. I hope the attached and above information is helpful to you.
Best,

Rachel Smith
Deputy Solicitor General
Vermont Attorney General’s Office
109 State Street
Montpelier, Vermont 05609
(802)828-3178
Pronouns: she/her/hers

PRIVILEGED & CONFIDENTIAL COMMUNICATION: This communication may contain information that is privileged, confidential, and exempt from disclosure under applicable law. DO NOT read, copy, or disseminate this communication unless you are the intended addressee. If you are not the intended recipient (or have received this email in error) please notify the sender immediately and destroy this email.

Smith, Rachel E.

From: Smith, Rachel E.
Sent: Friday, January 28, 2022 3:43 PM
To: McDougall, Robert; Battles, Benjamin
Subject: RE: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

Great – thanks, Rob.

From: McDougall, Robert <robert.mcdougall@vermont.gov>
Sent: Friday, January 28, 2022 3:42 PM
To: Battles, Benjamin <Benjamin.Battles@vermont.gov>
Cc: Smith, Rachel E. <Rachel.E.Smith@vermont.gov>
Subject: RE: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

Hi Ben and Rachel: I'm waiting on a call from TJ. If he okays this today I will let you know. If I don't speak to him today (I expect I will) and this has to go to Monday, I will make sure to let Josh know about this and will remind them on Chiefs.

Rob

From: Battles, Benjamin <Benjamin.Battles@vermont.gov>
Sent: Friday, January 28, 2022 12:35 PM
To: McDougall, Robert <robert.mcdougall@vermont.gov>
Cc: Smith, Rachel E. <Rachel.E.Smith@vermont.gov>
Subject: FW: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

From: Kobick, Julia (AGO) <julia.kobick@state.ma.us>
Sent: Friday, January 28, 2022 12:15 PM
To: Battles, Benjamin <Benjamin.Battles@vermont.gov>
Subject: RE: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

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Hi Ben,

As of now we have five other states that have signed on—DC, Hawaii, Illinois, New Jersey, and Oregon—but I've been in touch with a few others who are likely to sign on as well.

Thanks for considering the brief,
Julie

From: Battles, Benjamin <Benjamin.Battles@vermont.gov>
Sent: Friday, January 28, 2022 11:45 AM

To: Kobick, Julia (AGO) <julia.kobick@mass.gov>

Subject: RE: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi Julie. Hope you are doing well. Do you happen to have a state count on this?

Best,
Ben

From: Kobick, Julia (AGO) <julia.kobick@state.ma.us>

Sent: Monday, January 24, 2022 3:04 PM

To: Michael Mongan <Michael.Mongan@doj.ca.gov>; Janill.Richards@doj.ca.gov; Helen.Hong@doj.ca.gov; Sam.Siegel@doj.ca.gov; Karli Eisenberg <Karli.Eisenberg@doj.ca.gov>; Lisa.Ehrlich@doj.ca.gov; Renuka.George@doj.ca.gov; Michael.Newman@doj.ca.gov; michael.redding@doj.ca.gov; Eric.Olson@coag.gov; Clare.Kindall@ct.gov; Joshua.Perry@ct.gov; Aaron.goldstein@state.de.us; Ilona.kirshon@state.de.us; Christian.Wright@delaware.gov; Vanessa.Kassab@delaware.gov; loren.alikhan@dc.gov; VanZile, Caroline (OAG) <Caroline.VanZile@dc.gov>; Samson.Schatz@dc.gov; kathleen.konopka@dc.gov; nicole.hill@dc.gov; brendan.downes@dc.gov; Kimberly.T.Guidry@hawaii.gov; Jane.Notz@ilag.gov; Sarah.Hunger@ilag.gov; Hemmer, Alex <Alex.Hemmer@ilag.gov>; Elizabeth.Morris@ilag.gov; E.RobersonYoung@ilag.gov; jeffrey.thompson@iowa.gov; Nathan.Blake@ag.iowa.gov; Susan.Herman@maine.gov; Christopher.C.Taub@maine.gov; ssullivan@oag.state.md.us; asnyder@oag.state.md.us; ShermanA@michigan.gov; RestucciaE@michigan.gov; AllenC28@michigan.gov; Banghart-LinnL@michigan.gov; AG-SG-Review-Team@michigan.gov; Liz.Kramer@ag.state.mn.us; Jacob.Campion@ag.state.mn.us; Susan.Gretz@ag.state.mn.us; Pamela.Hewitt@ag.state.mn.us; HStern@ag.nv.gov; CNewby@ag.nv.gov; JAdair@ag.nv.gov; RCarreau@ag.nv.gov; Jeremy Feigenbaum <Jeremy.Feigenbaum@njoag.gov>; melissa.medoway@njoag.gov; mayur.saxena@law.njoag.gov; multistate@njoag.gov; tmaestas@nmag.gov; nsydow@nmag.gov; jlusk@nmag.gov; barbara.underwood@ag.ny.gov; Dasgupta, Anisha <Anisha.Dasgupta@ag.ny.gov>; Steven.Wu@ag.ny.gov; blair.greenwald@ag.ny.gov; Laura.Etlinger@ag.ny.gov; Park, Ryan <rpark@ncdoj.gov>; SNarasimhan@ncdoj.gov; Benjamin.Gutman@doj.state.or.us; michael.c.kron@doj.state.or.us; jdelone@attorneygeneral.gov; Fischer, Michael J. <mfischer@attorneygeneral.gov>; sstvincent@attorneygeneral.gov; kbentz@attorneygeneral.gov; MField@riag.ri.gov; marialenz@riag.ri.gov; MFolcarelli@riag.ri.gov; Battles, Benjamin <Benjamin.Battles@vermont.gov>; noah.purcell@atg.wa.gov; peter.gonick@atg.wa.gov; Wendy.Otto@atg.wa.gov; gibsoncj@doj.state.wi.us; wilsoncj@doj.state.wi.us; ZolikNJ@doj.state.wi.us; Day, David D <david.d.day@hawaii.gov>

Cc: Dewar, Bessie (AGO) <bessie.dewar@state.ma.us>; Kravitz, David (AGO) <david.kravitz@state.ma.us>

Subject: RE: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

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Good afternoon, everyone,

A draft of the proposed States' brief in *Estados Unidos Mexicanos v. Smith & Wesson et al.*, No. 1:21-cv-11269-FDS (D. Mass.), is attached here. As mentioned in the email below, the filing deadline is next Monday, January 31st, so please let us know by 11am ET on January 31st if your State would like to join this brief. Please also send any comments by 12pm ET this Friday, January 28th.

Many thanks,

Julie Kobick (she/her)

Deputy State Solicitor
Office of Attorney General Maura Healey
One Ashburton Place
Boston, Massachusetts 02108
(617) 963-2559
julia.kobick@mass.gov

From: Kobick, Julia (AGO)

Sent: Wednesday, January 19, 2022 11:13 AM

To: Michael Mongan <Michael.Mongan@doj.ca.gov>; Janill.Richards@doj.ca.gov; Helen.Hong@doj.ca.gov; Sam.Siegel@doj.ca.gov; Karli Eisenberg <Karli.Eisenberg@doj.ca.gov>; Lisa.Ehrlich@doj.ca.gov; Renuka.George@doj.ca.gov; Michael.Newman@doj.ca.gov; michael.redding@doj.ca.gov; Eric.Olson@coag.gov; Clare.Kindall@ct.gov; Joshua.Perry@ct.gov; Aaron.goldstein@state.de.us; Ilona.kirshon@state.de.us; Christian.Wright@delaware.gov; Vanessa.Kassab@delaware.gov; loren.alikhan@dc.gov; VanZile, Caroline (OAG) <Caroline.VanZile@dc.gov>; Samson.Schatz@dc.gov; kathleen.konopka@dc.gov; nicole.hill@dc.gov; brendan.downes@dc.gov; Kimberly.T.Guidry@hawaii.gov; Jane.Notz@ilag.gov; Sarah.Hunger@ilag.gov; Hemmer, Alex <Alex.Hemmer@ilag.gov>; Elizabeth.Morris@ilag.gov; E.RobersonYoung@ilag.gov; jeffrey.thompson@iowa.gov; Nathan.Blake@ag.iowa.gov; Susan.Herman@maine.gov; Christopher.C.Taub@maine.gov; ssullivan@oag.state.md.us; asnyder@oag.state.md.us; ShermanA@michigan.gov; RestucciaE@michigan.gov; AllenC28@michigan.gov; Banghart-LinnL@michigan.gov; AG-SG-Review-Team@michigan.gov; Liz.Kramer@ag.state.mn.us; Jacob.Campion@ag.state.mn.us; Susan.Gretz@ag.state.mn.us; Pamela.Hewitt@ag.state.mn.us; HStern@ag.nv.gov; CNewby@ag.nv.gov; JAdair@ag.nv.gov; RCarreau@ag.nv.gov; Jeremy Feigenbaum <Jeremy.Feigenbaum@njoag.gov>; melissa.medoway@njoag.gov; mayur.saxena@law.njoag.gov; multistate@njoag.gov; tmaestas@nmag.gov; nsydow@nmag.gov; jlusk@nmag.gov; barbara.underwood@ag.ny.gov; Dasgupta, Anisha <Anisha.Dasgupta@ag.ny.gov>; Steven.Wu@ag.ny.gov; blair.greenwald@ag.ny.gov; Laura.Etlinger@ag.ny.gov; Park, Ryan <rpark@ncdoj.gov>; SNarasimhan@ncdoj.gov; Benjamin.Gutman@doj.state.or.us; michael.c.kron@doj.state.or.us; idelone@attorneygeneral.gov; Fischer, Michael J. <mfischer@attorneygeneral.gov>; sstvincent@attorneygeneral.gov; kbentz@attorneygeneral.gov; MField@riag.ri.gov; marialenz@riag.ri.gov; MFolcarelli@riag.ri.gov; Battles, Benjamin <Benjamin.Battles@vermont.gov>; noah.purcell@atg.wa.gov; peter.gonick@atg.wa.gov; Wendy.Otto@atg.wa.gov; gibsoncj@doj.state.wi.us; wilsonerj@doj.state.wi.us; ZolikNJ@doj.state.wi.us
Cc: Dewar, Bessie (AGO) <bessie.dewar@mass.gov>; Kravitz, David (AGO) <david.kravitz@mass.gov>
Subject: Amicus memo in *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al.*, No. 1:21-cv-11269-FDS (D. Mass.)

Good morning, everyone,

We're writing to let you know that Massachusetts is drafting an amicus brief in *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc.*, No. 1:21-cv-11269-FDS, a case pending in the federal district court in Massachusetts. The case, brought by the government of Mexico against several American gun manufacturers whose weapons are foreseeably trafficked to gangs in Mexico, implicates the proper construction of the Protection of Lawful Commerce in Arms Act (PLCAA), 15 U.S.C. §§ 7901-7903.

As described in the attached memo, the amicus brief will support Mexico's opposition to the defendants' joint motion to dismiss. The motion to dismiss, among other arguments, raises PLCAA as a defense to all of Mexico's claims. Those claims include several tort claims and claims under two state consumer protection statutes—Mass. Gen. Laws ch. 93A and the Connecticut Unfair Trade Practices Act (CUTPA). This case will be the first time a federal district court in Massachusetts will be called on to construe PLCAA and, in particular, to address whether state consumer protection statutes like Chapter 93A and CUTPA fall within PLCAA's "predicate exception." That predicate exception permits actions alleging that the defendant knowingly violated a state or federal statute "applicable to the sale or marketing" of guns, notwithstanding PLCAA's general bar on civil actions against gun manufacturers and gun sellers. 15 U.S.C. § 7903(5)(A)(iii).

The amicus brief will describe the States' interests in a narrow construction of PLCAA—namely, their interests in preserving common law and statutory remedies for harms caused within their borders and in preserving all lawful measures available to deter gun violence. The brief will explain that, absent an unmistakably clear statement from Congress, PLCAA must be construed narrowly so as to preserve state causes of action. In particular, the predicate exception should be construed to allow actions that plausibly allege violations of state consumer protection laws, which have long been applied to regulate the sale and marketing of firearms. The brief will also argue that the avoidance canon counsels in favor of a narrow construction of PLCAA because the defendants' expansive construction of the law gives rise to Tenth Amendment concerns.

Mexico's opposition to the defendants' motion to dismiss is due on Monday, January 31st. We plan to file the amicus brief on that date as well. We expect to circulate the brief to this group for consideration next **Monday, January 24th**, and will request any joins by **11am on January 31st**. In the meantime, we welcome any questions you might have about the brief.

Many thanks,

Julie Kobick (she/her)
Deputy State Solicitor
Office of Attorney General Maura Healey
One Ashburton Place
Boston, Massachusetts 02108
(617) 963-2559
julia.kobick@mass.gov

From: [McDougall, Robert](#)
To: [Diamond, Joshua](#)
Subject: FW: Amicus brief in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)
Date: Friday, January 28, 2022 5:02:38 PM
Attachments: [Amicus Brief Mexico v. Smith & Wesson with TOC and TOA.docx](#)
Importance: High

Josh: Here's the Amicus Brief for that outstanding sign on due Monday morning. See my other email for Ben's summary.

Rob

From: Battles, Benjamin <Benjamin.Battles@vermont.gov>
Sent: Friday, January 28, 2022 3:44 PM
To: McDougall, Robert <robert.mcdougall@vermont.gov>; Smith, Rachel E. <Rachel.E.Smith@vermont.gov>
Subject: FW: Amicus brief in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

Updated join list below

From: Kobick, Julia (AGO) <julia.kobick@state.ma.us>
Sent: Friday, January 28, 2022 3:41 PM
To: Michael Mongan <Michael.Mongan@doj.ca.gov>; Janill.Richards@doj.ca.gov; Helen.Hong@doj.ca.gov; Sam.Siegel@doj.ca.gov; Karli Eisenberg <Karli.Eisenberg@doj.ca.gov>; Lisa.Ehrlich@doj.ca.gov; Renuka.George@doj.ca.gov; Michael.Newman@doj.ca.gov; michael.redding@doj.ca.gov; Eric.Olson@coag.gov; Clare.Kindall@ct.gov; Joshua.Perry@ct.gov; Aaron.goldstein@state.de.us; Ilona.kirshon@state.de.us; Christian.Wright@delaware.gov; Vanessa.Kassab@delaware.gov; loren.alikhan@dc.gov; VanZile, Caroline (OAG) <Caroline.VanZile@dc.gov>; Samson.Schatz@dc.gov; kathleen.konopka@dc.gov; nicole.hill@dc.gov; brendan.downes@dc.gov; Kimberly.T.Guidry@hawaii.gov; Jane.Notz@ilag.gov; Sarah.Hunger@ilag.gov; Hemmer, Alex <Alex.Hemmer@ilag.gov>; Elizabeth.Morris@ilag.gov; E.RobersonYoung@ilag.gov; jeffrey.thompson@iowa.gov; Nathan.Blake@ag.iowa.gov; Susan.Herman@maine.gov; Christopher.C.Taub@maine.gov; ssullivan@oag.state.md.us; asnyder@oag.state.md.us; ShermanA@michigan.gov; RestucciaE@michigan.gov; AllenC28@michigan.gov; Banghart-LinnL@michigan.gov; AG-SG-Review-Team@michigan.gov; Liz.Kramer@ag.state.mn.us; Jacob.Campion@ag.state.mn.us; Susan.Gretz@ag.state.mn.us; Pamela.Hewitt@ag.state.mn.us; HStern@ag.nv.gov; CNewby@ag.nv.gov; JAdair@ag.nv.gov; RCarreau@ag.nv.gov; Jeremy Feigenbaum <Jeremy.Feigenbaum@njoag.gov>; melissa.medoway@njoag.gov; mayur.saxena@law.njoag.gov; multistate@njoag.gov; tmaestas@nmag.gov; nsydow@nmag.gov; jlusk@nmag.gov; barbara.underwood@ag.ny.gov; Dasgupta, Anisha <Anisha.Dasgupta@ag.ny.gov>; Steven.Wu@ag.ny.gov; blair.greenwald@ag.ny.gov; Laura.Etlinger@ag.ny.gov; Park, Ryan <rpark@ncdoj.gov>; SNarasimhan@ncdoj.gov; Benjamin.Gutman@doj.state.or.us; michael.c.kron@doj.state.or.us;

jdellone@attorneygeneral.gov; Fischer, Michael J. <mfischer@attorneygeneral.gov>;
sstvincent@attorneygeneral.gov; kbentz@attorneygeneral.gov; MField@riag.ri.gov;
marialenz@riag.ri.gov; MFolcarelli@riag.ri.gov; Battles, Benjamin <Benjamin.Battles@vermont.gov>;
noah.purcell@atg.wa.gov; peter.gonick@atg.wa.gov; Wendy.Otto@atg.wa.gov;
gibsoncj@doj.state.wi.us; Chandini Jha <Chandini.Jha@law.njoag.gov>; wilsonej@doj.state.wi.us;
ZolikNJ@doj.state.wi.us; Day, David D <david.d.day@hawaii.gov>; Mullen, Daniel B.
<dmullen@attorneygeneral.gov>

Cc: Dewar, Bessie (AGO) <bessie.dewar@state.ma.us>; Kravitz, David (AGO)
<david.kravitz@state.ma.us>

Subject: RE: Amicus brief in *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al.*, No. 1:21-cv-11269-FDS (D. Mass.)

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Good afternoon, everyone,

I'm attaching an updated draft of the proposed States' amicus brief in *Estados Unidos Mexicanos v. Smith & Wesson et al.*, No. 1:21-cv-11269-FDS (D. Mass.), which incorporates very helpful feedback from several of you. Thank you to those who shared comments and to the States that have already joined the brief—Delaware, the District of Columbia, Hawaii, Illinois, Minnesota, New Jersey, and Oregon. We'd welcome any more joins until 11am next Monday, January 31st, and we'll circulate an as-filed version of the brief later than day.

Enjoy the weekend,
Julie

From: Kobick, Julia (AGO)

Sent: Monday, January 24, 2022 3:04 PM

To: Michael Mongan <Michael.Mongan@doj.ca.gov>; Janill.Richards@doj.ca.gov;
Helen.Hong@doj.ca.gov; Sam.Siegel@doj.ca.gov; Karli Eisenberg <Karli.Eisenberg@doj.ca.gov>;
Lisa.Ehrlich@doj.ca.gov; Renuka.George@doj.ca.gov; Michael.Newman@doj.ca.gov;
michael.redding@doj.ca.gov; Eric.Olson@coag.gov; Clare.Kindall@ct.gov; Joshua.Perry@ct.gov;
Aaron.goldstein@state.de.us; Ilona.kirshon@state.de.us; Christian.Wright@delaware.gov;
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<Caroline.VanZile@dc.gov>; Samson.Schatz@dc.gov; kathleen.konopka@dc.gov; nicole.hill@dc.gov;
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tmaestas@nmag.gov; nsydow@nmag.gov; jlusk@nmag.gov; barbara.underwood@ag.ny.gov;
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Subject: RE: Amicus memo in Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al., No. 1:21-cv-11269-FDS (D. Mass.)

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Many thanks,

Julie Kobick (she/her)
Deputy State Solicitor
Office of Attorney General Maura Healey
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Boston, Massachusetts 02108
(617) 963-2559
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Cc: Dewar, Bessie (AGO) <bessie.dewar@mass.gov>; Kravitz, David (AGO) <david.kravitz@mass.gov>
Subject: Amicus memo in *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc. et al.*, No. 1:21-cv-11269-FDS (D. Mass.)

Good morning, everyone,

We're writing to let you know that Massachusetts is drafting an amicus brief in *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc.*, No. 1:21-cv-11269-FDS, a case pending in the federal district court in Massachusetts. The case, brought by the government of Mexico against several American gun manufacturers whose weapons are foreseeably trafficked to gangs in Mexico, implicates the proper construction of the Protection of Lawful Commerce in Arms Act (PLCAA), 15 U.S.C. §§ 7901-7903.

As described in the attached memo, the amicus brief will support Mexico's opposition to the defendants' joint motion to dismiss. The motion to dismiss, among other arguments, raises PLCAA as a defense to all of Mexico's claims. Those claims include several tort claims and claims under two state consumer protection statutes—Mass. Gen. Laws ch. 93A and the Connecticut Unfair Trade Practices Act (CUTPA). This case will be the first time a federal district court in Massachusetts will be called on to construe PLCAA and, in particular, to address whether state consumer protection statutes like Chapter 93A and CUTPA fall within PLCAA's "predicate exception." That predicate exception permits actions alleging that the defendant knowingly violated a state or federal statute "applicable to the sale or marketing" of guns, notwithstanding PLCAA's general bar on civil actions against gun manufacturers and gun sellers. 15 U.S.C. § 7903(5)(A)(iii).

The amicus brief will describe the States' interests in a narrow construction of PLCAA—namely, their interests in preserving common law and statutory remedies for harms caused within their borders and in preserving all lawful measures available to deter gun violence. The brief will explain that, absent an unmistakably clear statement from Congress, PLCAA must be construed narrowly so as to preserve state causes of action. In particular, the predicate exception should be construed to allow actions that plausibly allege violations of state consumer protection laws, which have long been applied to regulate the sale and marketing of firearms. The brief will also argue that the avoidance

canon counsels in favor of a narrow construction of PLCAA because the defendants' expansive construction of the law gives rise to Tenth Amendment concerns.

Mexico's opposition to the defendants' motion to dismiss is due on Monday, January 31st. We plan to file the amicus brief on that date as well. We expect to circulate the brief to this group for consideration next **Monday, January 24th**, and will request any joins by **11am on January 31st**. In the meantime, we welcome any questions you might have about the brief.

Many thanks,

Julie Kobick (she/her)
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From: Miriam Krinsky <mkrinsky@fairandjustprosecution.org>

Sent: Wednesday, January 26, 2022 4:50:31 PM

To: Miriam Krinsky <mkrinsky@fairandjustprosecution.org>

Cc: Edda Fransdottir <efransdottir@fairandjustprosecution.org>; Brendan Lyman <blyman@fairandjustprosecution.org>; Kalyn Hill <khill@fairandjustprosecution.org>; Allahjah Smith <asmith@fairandjustprosecution.org>; Cameron DeChalus <cdechalus@fairandjustprosecution.org>

Subject: Two TIME SENSITIVE requests – Amicus brief led by DA Chesa Boudin & Support letter for Vinny Schiraldi – Reply by COB THIS FRIDAY

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

All:

I am reaching out with two requests, both of which are time sensitive and require a reply by *this Friday* (with apologies for the short turnaround time).

1. Amicus Brief in Support of Lawsuit Against Major Firearms Manufacturers and Distributors - Ask by DA Chesa Boudin

DA Chesa Boudin, at the request of the Foreign Office in Mexico, is coordinating the submission of an amicus brief in a lawsuit filed by the Mexican government against major U.S. firearms manufacturers and distributors. The lawsuit seeks damages from the gun companies based on allegations that their sales practices in Mexico negligently and willfully led to illicit firearms falling into the hands of violent drug cartels, in turn driving up crime and the tragic loss of life in both Mexico and the United States. DA Boudin's office is seeking out other elected prosecutors to join them as signatories to an amicus brief opposing the gun companies' motion to dismiss the lawsuit.

The draft brief, which is attached, argues that the federal district court has jurisdiction over the case because negligent and irresponsible gun sales practices in Mexico are causing extensive violence here at home, and also facilitating the flow of illicit drugs into the U.S., particularly, the synthetic opioid fentanyl, which has caused so many overdose deaths in the United States. Because this brief is due on Monday, January 31, if you would like to sign on please let us know by *this Friday, January 28*. (We will pass on all names to Chesa at day's end on Friday.)

FJP supports DA Boudin in this effort. By bringing together your voices in this case, you can help make clear that, in order to keep our communities safe, we must take seriously the

proliferation of illegal guns nationwide as a significant driver and root cause of violent crime. This lawsuit underscores that if we are going to meaningfully address gun violence in this nation, then the corporations that introduce guns into our communities must begin to act far more cautiously and responsibly.

2. Support Letter for Vinny Schiraldi's Appointment as BOP Head

Second, we are hoping that you will consider signing on to a short letter to Attorney General Merrick Garland, attached, supporting the appointment of Vincent Schiraldi to be the Director of the Federal Bureau of Prisons. As we strive for a fair, equitable, and effective criminal legal system, it is critical to have a capable leader in charge of the Federal Bureau of Prisons who can address the many challenges facing the federal correctional system and also help advance timely and needed reforms. Vinny's decades of experience and longstanding commitment to innovation and reform make him uniquely qualified to lead BOP at this critical moment in time.

As many of you may know, Vinny has an impressive criminal justice career spanning four decades. He started out as a counselor in a youth correctional facility, founded two non-profit organizations working with formerly incarcerated youth and adults, has run correctional and community correctional systems in New York City and Washington, D.C., served as an advocate and leading national voice for the needs of justice-involved young people, and served as a researcher and academic at Harvard and Columbia Universities. Most recently, he courageously took on the enormous task of running New York City's Department of Correction, including the notorious Rikers Island jail complex, for the final months of Mayor Bill de Blasio's term of office.

If you would like to join either or both the amicus brief and support letter for Vinny Schiraldi, please email me and also copy Edda Frandsdottir, Kalyn Hill, Cam DeChalus, and Allahjah Smith, who are all copied on this email. And given the dual ask, please let us know which of these you are game to join.

Finally, as always, we ask that you keep the near-final brief, communication and letter regarding Vinny, and this email, **confidential** and not share either of these with others until they go out!

Thank you so much for taking the time to consider lending your support to both of these crucial and timely endeavors.

Best wishes,
Miriam and the FJP Team

Miriam Aroni Krinsky

Founder and Executive Director

Fair and Just Prosecution

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ESTADOS UNIDOS MEXICANOS,

Plaintiff,

v.

SMITH & WESSON BRANDS, INC.;
BARRETT FIREARMS MANUFACTURING,
INC.; BERETTA U.S.A. CORP.; BERETTA
HOLDING S.P.A.; CENTURY
INTERNATIONAL ARMS, INC.; COLT'S
MANUFACTURING COMPANY LLC;
GLOCK, INC.; GLOCK GES.M.B.H.; STURM,
RUGER & CO., INC.; WITMER PUBLIC
SAFETY GROUP, INC. D/B/A INTERSTATE
ARMS,

Defendants.

Civil Action No: 1:21-cv-11269-FDS

**BRIEF OF DISTRICT ATTORNEYS AS *AMICI CURIAE* IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTIONS TO DISMISS**

I. INTEREST OF THE AMICI CURIAE

Amici are District Attorneys in cities across the nation that are devastated by the violence and crime directly resulting from Defendants gun sales: Chesa Boudin, District Attorney of San Francisco; _____.¹ Our jobs are to protect our cities from crime and violent gangs. As detailed below, we have an interest in this proceeding because Defendants' gun sales are resulting in transnational cartel violence and crime that are consuming the resources of our offices, harming the people in our cities whom we are duty bound to protect, and endangering law enforcement.

II. INTRODUCTION

We live in a global economy; labor, production, and consumption transcend the borders of our nation. Like COVID, crime crosses borders, too. Not just into border towns, but across the entire country, through sophisticated criminal networks. It is hardly a surprise then, that when Defendants export scores of military-style weapons to Mexico, they are importing human suffering into the United States. Their guns are being turned on people in our cities and the brave members of law enforcement who protect them, and they are fueling the drug carnage ravaging the country. Defendants want to pretend that when you fire a weapon into the air, the bullets never land anywhere. That is wrong. Defendants' profiteering is paid for in U.S. blood.

Defendants and Mexican cartels are involved in a deadly exchange: Defendants supply the assault weapons and sniper rifles that Mexican cartels use to carry out unlawful trafficking, and the cartels in turn blanket American communities with lethal drugs and violence. As Plaintiff Estados Unidos Mexicanos ("Mexico") pleads in its Complaint, Defendants design and distribute

¹ No party or counsel for a party authored the brief in whole or in part, and no party, counsel for a party, or person other than amici, their members, or their counsel made any monetary contribution intended to fund the preparation or submission of the brief.

military-style weapons of war with full knowledge that they will be used by cartels in the bloody battle over the lucrative drug trade to the United States.

Our offices have seen firsthand the catastrophic effect that Defendants' conduct has had in our own communities—from the escalating violence and turf wars fought with Defendants' guns, to the destructive effects of narcotics, including fentanyl, that Mexican cartels are importing, using Defendants' guns. Amici are tasked with protecting our communities from the violence Defendants are aiding, responding to people dying of drug overdoses on the streets, addressing the hazards posed by public injection, and combatting the deterioration of neighborhoods that leads residents to feel unsafe in their own communities.

III. THIS COURT HAS JURISDICTION OVER DEFENDANTS BECAUSE THEIR GUN SALES TO MEXICO ARE CAUSING PROFOUND HARM HERE

Following their decades-old playbook, Defendants assert that the Court lacks jurisdiction over Mexico's claims because they are not subject to personal jurisdiction in this District. (*See* Dkt. Nos. 57 (Sturm, Ruger & Company, Inc.); 59 (Barret Firearms Manufacturing, Inc.); 63 (Glock, Inc.); 65 (Colt's Manufacturing Company LLC); 71 (Smith & Wesson Brands, Inc.); 73 (Beretta U.S.A. Corp.)) Not so. Defendants have intentionally flooded Mexico with guns, which directly causes substantial harm in the United States. As transnational drug cartels cross U.S. borders, the guns Defendants send into Mexico boomerang back to the United States and are used to attack law enforcement and commit crimes here. Using the same illicit networks, cartels send Defendants' guns to Mexico in exchange for importing drugs here. And the guns themselves are used to protect contraband and drug money and to carry out turf wars on the streets of our cities. Because Defendants' have for years intentionally put guns into the hands of Mexican cartels, which have caused substantial and easily foreseeable harm here, it is only fair that Defendants should be held to answer anywhere that they have caused such injuries. *See*

Asahi Metal Indus. Co. v. Super. Ct. of Cal., 480 U.S. 102, 112 (1987) (O’Connor, *J.*, plurality op.) (“placement of a product into the stream of commerce” combined with “[a]dditional conduct of the defendant may indicate an intent or purpose to serve the market in the forum State, for example, designing the product for the market in the forum State, advertising in the forum State, establishing channels for providing regular advice to customers in the forum State, or marketing the product through a distributor who has agreed to serve as the sales agent in the forum State”); *see Heins v. Wilhelm Loh Wetzlar Optical Mach. GmbH & Co. KG.*, 26 Mass. App. Ct. 14, 22 (1988); *Levin v. Harned*, 292 F. Supp. 2d 220, 229 (D. Mass. 2003). Any argument to the contrary is contradicted by decades of evidence establishing that Defendants intended for their military-style weapons to be bought and sold by members of the Mexican cartels, which would in turn bring violence and drugs back into each district in the United States, including this District.

It is well documented that Mexican cartels are among American gun manufacturers’ best customers. Defendants have known this for years, as thousands of their guns are going into Mexico *on a daily basis*.² Further, it is well documented that, for years, gun manufacturers—including Defendants who overwhelmingly dominate that market—have made more guns than there are people in this country.³ On this score, the Court can make only one plausible inference: that Defendants have knowingly and intentionally manufactured weapons of war with the intent

² David Gagne, *2,000 Illegal Weapons Cross US-Mexico Border Per Day: Report*, InSight Crime (Jan. 22, 2015), <https://insightcrime.org/news/analysis/2000-illegal-weapons-cross-us-mexico-border-every-day/>; *see* Gabriela Martinez, *The Flow of Guns from the U.S. to Mexico Is Getting Lost in the Border Debate*, PBS (July 2, 2019), <https://www.pbs.org/newshour/politics/the-flow-of-guns-from-the-u-s-to-mexico-is-getting-lost-in-the-border-debate>.

³ Christopher Ingraham, *There Are More Guns Than People in The United States, According to a New Study of Global Firearm Ownership*, Wash. Post (June 19, 2018), <https://www.washingtonpost.com/news/wonk/wp/2018/06/19/there-are-more-guns-than-people-in-the-united-states-according-to-a-new-study-of-global-firearm-ownership/>.

that they will be trafficked into Mexico for use by the cartels. Put differently, the numerous sales Defendants make in this District, as well as every other district in this country, are made in part with the intent of arming transnational criminals who then traffic violence and drugs back into the United States.

Under bedrock jurisdictional principles, Defendants are subject to this Court's jurisdiction. Defendants' sell guns in this District as well as districts across the country knowing and intending that those guns will illegally make their way to Mexico and into the hands of international gangsters. Once in the hands of members of the Mexican cartels, Defendants' guns are used to facilitate the flood of drugs and violence back into the United States. In other words, facilitated by Defendants' guns, transnational cartels have established a two-way network whereby drugs and violence flow back and forth between Mexico and the United States. Defendants have not only ignored this problem, but they continue to manufacture and market military-style guns that they know and intend will be obtained by Mexican cartels. Defendants' actions are devastating amici's communities, as well as communities across the country, and they can no longer hide behind their unpersuasive jurisdictional arguments.

A. The Guns That Defendants Sell into Mexico Return to the U.S. and Wreak Havoc in Amici's Communities

Substantial evidence compiled by reporters, non-governmental organizations, and law enforcement demonstrates that transnational cartels are using Defendants' guns, funneled from the United States to Mexico and then back to the United States again, to further their illicit operations in amici's communities as well as communities throughout the United States. Arrests from this District as well as in amici's districts are illustrative. For example, in April 2021, an individual with ties to the Jalisco Cartel New Generation (CJNG) was arrested in Holyoke and found in possession of multiple weapons of war, including an AR-15 assault rifle and handguns

equipped with laser sights and capable of carrying large-caliber ammunition.⁴ Just a month earlier, eight individuals with “direct ties to a Mexican cartel” were arrested in Boston and found in possession of hundreds of thousands of dollars’ worth of Fentanyl. On the other side of the country, federal agents in the South Bay Area of California arrested 19 individuals with ties to the Sinaloa Cartel’s drug and firearm trafficking operations in February 2021.⁵ These individuals were in possession of 16 military-style guns, which were purchased in the United States and combined with grenade launchers that had been transported to California from Mexico.⁶ Also in 2021, federal agents in San Diego arrested dozens of individuals with ties to the Sinaloa Cartel, and seized from them 90 firearms.⁷ Accordingly, in this past year alone, agents have seized more than 100 guns from Mexican Cartel operatives in California—and these are only the guns recovered from individuals who got caught. Further, these kinds of incidents are not new, as law-enforcement agents have been making cartel-related busts in which numerous guns were recovered for more than a decade.⁸

As crime guns proliferate in amici’s communities and across the country, so too do deadly shootings. According to the Gun Violence Archive, there were more than 20,000 gun

⁴ U.S. Att’y for D. Mass, *Holyoke Man Arrested for Fentanyl Conspiracy* (Apr. 9, 2021), <https://www.justice.gov/usao-ma/pr/holyoke-man-arrested-fentanyl-conspiracy>.

⁵ U.S. Att’y for the N.D. Cal., *Nineteen South Bay Residents Charged in Alleged Scheme to Funnel Drugs into U.S and Firearms to Mexico* (Feb. 11, 2021), <https://www.justice.gov/usao-ndca/pr/nineteen-south-bay-residents-charged-alleged-scheme-funnel-drugs-us-and-firearms-mexico>.

⁶ *Id.*

⁷ U.S. Att’y for the S.D. Cal., *Sixty Defendants Charged in Nationwide Takedown of Sinaloa Cartel Methamphetamine Network* (June 29, 2021), <https://www.justice.gov/usao-sdca/pr/sixty-defendants-charged-nationwide-takedown-sinaloa-cartel-methamphetamine-network>.

⁸ Att’y Gen. of California, *Brown Announces 16 Indictments, 550 Pound Drug Seizure Following Infiltration of Sinaloa Cartel* (Aug. 26, 2009) (state law enforcement agents in Imperial County arrested 16 members of the Sinaloa Cartel who were in possession of 9 firearms), <https://oag.ca.gov/news/press-releases/brown-announces-16-indictments-550-pound-drug-seizure-following-infiltration>.

deaths (not including suicides) in the United States in 2021, which represents the highest number in years.⁹ In San Francisco alone, by even the most conservative estimate, homicides were up more than 16% in 2021 as compared to the previous year,¹⁰ and most of these homicides were committed with guns used in daily shootings on neighborhood blocks and in parks.¹¹ As stated by a local law-enforcement officer working in California’s “Emerald Triangle” (comprised of Mendocino, Humboldt, and Trinity Counties), officers are responding to calls regarding “people in gunfights on a regular basis,” much of which is linked to Mexican cartels’ illicit operations.¹²

The prevalence of crime guns—and their disastrous effect on amici’s communities—are well known to Defendants. For decades, they (and the general public) have known that their guns far too easily fall into the wrong hands and are used for crime. As Judge Jack Weinstein explained in 2003, “guns move quickly from the legal to the illegal market; 13% were recovered within one year of their sale, and 30% were recovered within 3 years of their first sale.” *N.A.A.C.P. v. AcuSport, Inc.*, 271 F. Supp. 2d 435, 522 (E.D.N.Y. 2003). And, as Mexico notes in its Complaint, Defendants’ executives have for decades noted the ease with which their guns become “black market” firearms. (Compl. ¶ 87.) Yet, Defendants have taken no steps to protect our communities, and amici are forced to divert much of their limited resources to combatting gun violence.

⁹ Gun Violence Archive, *Number of Deaths in 2021*, <https://www.gunviolencearchive.org/past-tolls> (last visited January 21, 2021).

¹⁰ San Francisco Police Dep’t, *Crime Dashboard*, <https://www.sanfranciscopolice.org/stay-safe/crime-data/crime-dashboard> (last visited January 21, 2021).

¹¹ Abené Clayton, *Inside the San Francisco Bay Area’s Pandemic Murder Surge: ‘No One Knows This Pain But Us,’* GUARDIAN (Sept. 28, 2021), <https://www.theguardian.com/us-news/2021/sep/28/san-francisco-bay-area-gun-violence-murders-2020>.

¹² Beth Warren, *Marijuana wars: Violent Mexican drug cartels turn Northern California into ‘The Wild West,’* USA TODAY (Dec. 2021), <https://www.usatoday.com/in-depth/news/nation/2021/12/19/mexican-drug-cartels-move-in-on-californias-shadow-marijuana-industry/8960873002/>.

What better illustration to prove this point than the instant case? Mexico has one gun store and issues fewer than 50 permits per year, yet Defendants' guns still end up in Mexico in dangerous criminals' hands, which then make their way *back up* to amici's communities, where they are used to inflict untold violence. Defendants have made it very clear that without Court intervention, they will continue to sell their guns, which they know will illegally pour into Mexico and end up back in our communities. In other words, the scourge of gun violence will continue, as amici's efforts to curb this problem, just like Mexico's, are bound to fall short, absent the relief Mexico seeks here.

B. The Guns Defendants Sell into Mexico Facilitate the Flow of Illicit Drugs from Mexico to the United States

Using the same illicit networks, Mexican cartels send guns to the south, and drugs to the north in exchange.¹³ Moreover, Mexican cartels use Defendants' guns to facilitate all aspects of their drug trafficking operations—from attacking law enforcement in Mexico, to protecting their contraband and cash, assaulting law enforcement, and fighting over distribution territories in the United States—a drug trade that is plaguing U.S. cities. As the U.S. Attorney for the Northern District of California put it, “[t]he two-way flow of drug shipments heading north [to the United States] and firearms, including assault weapons, sniper rifles and grenade launchers, heading south [to Mexico] is a potentially dangerous situation.”¹⁴

1. Defendants' guns are integral to Mexican cartels' drug trafficking.

Mexican cartels are the leading suppliers of cocaine, heroin, methamphetamine, and other illicit narcotics to the U.S.¹⁵ Approximately 90-94% of the heroin consumed in the United States

¹³ U.S. Att’y for the N.D. Cal., *supra* note 5

¹⁴ *Id.*

¹⁵ Council on Foreign Relations, *Mexico’s Long War: Drugs, Crime, and the Cartels* (Feb. 2021), <https://www.cfr.org/backgrounder/mexicos-long-war-drugs-crime-and-cartels>.

comes from Mexico, and, of cocaine trafficked to the United States, approximately 90 percent first transited through the Mexico/Central America corridor.¹⁶ And, in the aftermath of cannabis legalization in California in 2016, cartels have moved their marijuana growing operations to Northern California, where they are undercutting prices of legalized products, exploiting workers, and engaging in violent conflicts using Defendants' guns.¹⁷

Mexican cartels have also taken over the highly lucrative business of producing fentanyl and distributing it into the United States.¹⁸ After a Chinese crackdown in 2019, the Sinaloa Cartel and the CJNG have increased their control over the export of the drug to the United States.¹⁹ Once Mexican traffickers smuggle wholesale shipments of drugs into the United States, their U.S. affiliates and street gangs manage retail-level distribution in cities throughout the country.²⁰

The guns Defendants are sending into Mexico are critical to these operations. Mexican cartels use Defendants' weapons to carry out murders in Mexico and here, as they have fought their turf wars over this profitable business in every major city in the United States using the guns supplied by Defendants. According to law enforcement reporting, Mexican cartels have formed relationships with U.S.-based street gangs and prison gangs, who routinely smuggle guns

¹⁶ Adam Isaacson, *Four Common Misconceptions about U.S.-bound Drug Flows through Mexico and Central America*, WOLA (June 20, 2017), <https://www.wola.org/analysis/four-common-misconceptions-u-s-bound-drug-flows-mexico-central-america/>.

¹⁷ Warren, *supra* note 12.

¹⁸ Unlike heroin, which requires acres of land to grow poppies and several months of cultivation, fentanyl requires a small workforce and infrastructure to set up a laboratory. A 2019 DEA report estimated that a fentanyl pill costs only \$1 to produce, but can be resold in the U.S. for at least 10 times as much. Audrey Travère & Jules Giraudat, *Revealed: How Mexico's Sinaloa Cartel Has Created a Global Network to Rule the Fentanyl Trade*, GUARDIAN (Dec. 2020), <https://www.theguardian.com/world/2020/dec/08/mexico-cartel-project-synthetic-opioid-fentanyl-drugs>.

¹⁹ Wilson Center Report, *supra* note , 4.

²⁰ Travère & Giraudat, *supra* note 18.

to the cartels, serve as retail-level drug distributors, collect illicit proceeds, and serve as enforcers.²¹ These deepening associations between Mexican cartels and U.S. gangs have sparked a rash of gun violence on the streets of amici's communities. For example, to obtain a foothold in Northern California, Mexican cartels have relied on connections with Sureño gangs based out of Southern California. The historic tension between Sureños and Norteños has caused bloodshed, including a January 2011 incident in San Jose where gang members working for a Mexican drug trafficking organization stormed a nightclub over a drug debt. The ensuing gun shootout between rival gangs killed three people.²²

In Chicago, the ties between Mexican cartels and street level gangs have exacerbated an already dire gun violence issue. Chicago-based gangs such as the Gangster Disciples, the Vice Lords, and the Latin Kings receive shipments of drugs from Mexican cartels and fight for territory for local drug sales.²³ Handguns are the weapon of choice for gang members, but they have also been known to set up ambushes using assault rifles capable of piercing police body armor, including at funerals of rival gang members.²⁴ In 2016, Chicago saw a jump of more than 50 percent from the previous year in homicides, the majority of which were gang-related and perpetrated with guns.²⁵

As the DEA has noted, "as long as illicit drugs remain in high demand in America, street-level drug sales will continue to rank among the top criminal activities conducted by street

²¹ National Drug Intelligence Center, *National-Level Gang-Drug Trafficking Organization Connections* (Apr. 2008),

<https://www.justice.gov/archive/ndic/pubs27/27612/national.htm#foot6>.

²² California Att'y General, *California and the Fight Against Transnational Organized Crime* (Mar. 2014), https://oag.ca.gov/sites/all/files/agweb/pdfs/toc/report_2014.pdf.

²³ Jeremy Kryt, *How Mexican Cartels Prey on Chicago's Chaos*, DAILY BEAST (July 2017), <https://www.thedailybeast.com/how-mexican-cartels-prey-on-chicagos-chaos>.

²⁴ *Id.*

²⁵ *Id.*

gangs, who are lured by the prospect of the huge financial gains.”²⁶ Moreover, “the violence associated with drug trafficking that is visited on communities around the country will only increase as street, prison, and outlaw motorcycle gangs clash viciously in their quest to control the largest and most lucrative territories,” using Defendants’ guns.²⁷ Put simply, Mexican cartels use Defendants’ guns to protect their drug operations in amici’s communities

In tandem with the increase in production and distribution and fentanyl that Mexican cartels have been able to realize using Defendants’ guns, fentanyl seizures have increased dramatically. In October, the Mexican Army and the National Guard raided a drug lab set up in an ostensibly middle-class home in Culiacán, the capital of northwest Sinaloa.²⁸ In the home, troops seized 118 kilograms of fentanyl, in what is being heralded as the largest seizure of pure fentanyl in history.²⁹ In tandem with the Mexican raid, U.S. federal agents arrested 17 individuals in Missouri, Arizona, and California, and recovered 50 firearms in connection with the arrests.³⁰ This is an irrefutable trend: in each major bust involving transnational cartels operating in the United States, numerous guns (including military-style weapons) are recovered.

²⁶ Drug Enforcement Administration, *2019 National Drug Threat Assessment* (Dec. 2019), https://www.dea.gov/sites/default/files/2020-01/2019-NDTA-final-01-14-2020_Low_Web-DIR-007-20_2019.pdf.

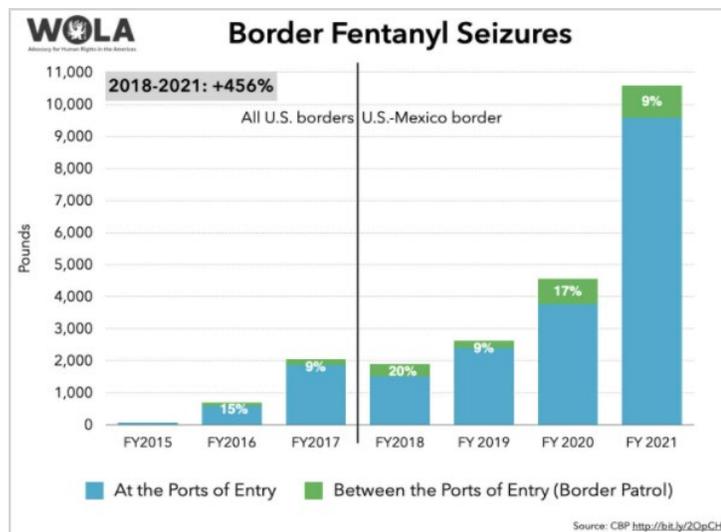
²⁷ *Id.*

²⁸ Parker Asman, *What Does Massive Fentanyl Seizure Say About US-Mexico Security Relations?* INSIGHT CRIME (Nov. 2021), <https://insightcrime.org/news/massive-seizure-fentanyl-us-mexico-security/>.

²⁹ *Id.*

³⁰ U.S. Att’y for the E.D. Mo., *Agents Arrest 17 People in Large-Scale Multi-State Drug Trafficking Ring Involving Fentanyl, Heroin, Crystal Methamphetamine and Firearms*, (Oct. 25, 2021), <https://www.justice.gov/usao-edmo/pr/agents-arrest-17-people-large-scale-multi-state-drug-trafficking-ring-involving>.

In the United States, Customs and Border Protection (CBP) estimates that seizures of fentanyl at the Southern border have increased by 233% in the last year alone.³¹



Amici have seen increases in seizures in their own communities. In February 2021, for example, federal agents in Northern California seized more than 1,000 pounds of methamphetamine, 500 grams of fentanyl, 20 pounds of cocaine, 20 pounds of heroin, and dozens of firearms in a coordinated drug bust nearly two years in the making.³² Whereas the weapons, including assault rifles, sniper rifles, and a grenade launcher, were acquired in the United States and destined for Mexico, the vast majority of the drugs seized originated with the Sinaloa cartel. The indictments against the 44 individuals associated with this bust provide a

³¹ Benjamin Fearnow, *Fentanyl Seizures at Southern U.S. Border Have Increased 233% in One Year*, NEWSWEEK (Apr. 2021), <https://www.newsweek.com/fentanyl-seizures-southern-us-border-have-increased-233-one-year-1584662>.

³² Michael Cabanatuan, *Massive Federal Drug Bust, Likely the Largest in the Bay Area, Nets 1,000 Pounds of Meth, 44 suspects*, SF CHRONICLE (Feb. 2021), <https://www.sfchronicle.com/crime/article/Massive-federal-drug-bust-nets-1-000-pounds-of-15943805.php>.

window into the vast distribution, transportation and sales network bringing drugs from Mexico to the streets of the Bay Area.³³ Sinaloa-linked busts have been made throughout the country.³⁴

In March 2020, the DEA announced the results of Project Python, a multilateral interagency operation encompassing all global investigations and related disruption activities targeting the CJNG cartel.³⁵ Project Python resulted in 600 arrests and 350 indictments throughout the country, including California, Texas, Illinois, and New Jersey, and seizures of more than 15,000 kilos of meth and nearly \$20 million in illicit funds.³⁶ Of course, multiple firearms, including military-style weapons, were recovered from these busts, including 18 firearms in San Diego alone.³⁷

³³ U.S. Att’y for the N.D. Cal., *supra* note 5.

³⁴ *See, e.g.*, U.S. Att’y for the S.D. Cal., *supra* note 7 (charging 60 members of a San Diego-based international methamphetamine distribution network tied to the Sinaloa Cartel); Wilson Beese, *8-Month Investigation into Colorado Organization Linked to Mexican Cartel Detailed in Indictment*, 9 NEWS (Dec. 2021), <https://www.9news.com/article/news/crime/colorado-drug-trafficking-fentanyl-mexican-cartel/73-9450b02d-696e-4d97-8f66-f55ceaec0ba9>; Aaron Katersky, *Alleged Mexican Drug Trafficker Tied to Sinaloa Cartel Indicted on Fentanyl Charges*, ABC NEWS (June 2019), <https://abcnews.go.com/US/alleged-mexican-drug-trafficker-tied-sinaloa-cartel-indicted/story?id=63503440> (A “Mexican drug trafficker tied to the Sinaloa cartel is among 22 people indicted Wednesday on charges they distributed heroin and fentanyl along a supply route from Mexico to New York.”).

³⁵ U.S. Dep’t of Just., *DEA-Led Operation Nets More Than 600 Arrests Targeting Cártel Jalisco Nueva Generación* (Mar. 11, 2020), <https://www.justice.gov/opa/pr/dea-led-operation-nets-more-600-arrests-targeting-c-rtel-jalisco-nueva-generaci-n>.

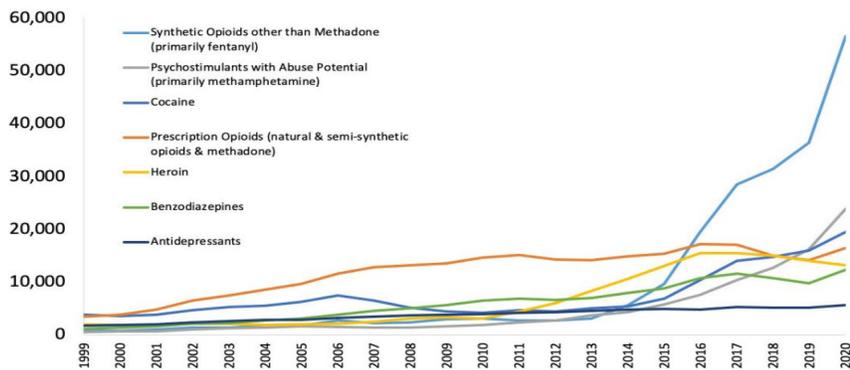
³⁶ *Id.*; *see also* Nina Golgowski, *Feds Arrest Over 600 Alleged Mexican Cartel Members Across U.S.*, HUFFINGTON POST (Mar. 2020), https://www.huffpost.com/entry/project-python-dea-drug-cartel-arrests_n_5e6a3494c5b6bd8156f29013.

³⁷ *DEA’s ‘Project Python’ Nets 130 Arrests in San Diego and Imperial Counties, Plus 3K+ Pounds of Meth*, NBC SAN DIEGO (Mar. 11, 2020), <https://www.nbcsandiego.com/news/local/photos-deas-project-python-nets-130-arrests-in-san-diego-and-imperial-counties-plus-3k-pounds-of-meth/2283454/>; Erik Avancier, *Guns, Drugs, Stolen Property Seized in Federal Raid on WestSide*, NEWS4JAX (Mar. 11, 2020), <https://www.news4jax.com/news/2020/03/11/guns-drugs-stolen-property-seized-in-federal-raid-on-westside/>.

2. The Fentanyl Mexican Cartels Are Importing Using Defendants’ Guns Is Causing Acute Harm in Our Communities

The widespread availability of synthetic opioids like the fentanyl trafficked by Mexican cartels has had a devastating effect on amici’s communities. Since 1999, the rate of drug overdoses in the U.S. has nearly quadrupled.³⁸ From April 2020 through March 2021, there were nearly 97,000 drug overdose deaths in the U.S., and 75% of those involved an opioid. In the same 12-month period the year before, 73,000 overdose deaths were reported, with 71% involving an opioid.³⁹

Figure 2. National Drug-Involved Overdose Deaths*, Number Among All Ages, 1999-2020



*Includes deaths with underlying causes of unintentional drug poisoning (X40–X44), suicide drug poisoning (X60–X64), homicide drug poisoning (X85), or drug poisoning of undetermined intent (Y10–Y14), as coded in the International Classification of Diseases, 10th Revision. Source: Centers for Disease Control and Prevention, National Center for Health Statistics. Multiple Cause of Death 1999-2020 on CDC WONDER Online Database, released 12/2021.

40

The COVID-19 pandemic has only exacerbated this issue, as people have struggled with isolation, economic precarity, and lack of access to services. As COVID-19 ravaged the county, the drug epidemic quietly took more lives. According to the Centers for Disease Control and Prevent (CDC), more than 100,000 Americans died of drug overdoses during the 12 months

³⁸ See Understanding the Epidemic, *supra* note __.

³⁹ Centers for Disease Control and Prevention, *Vital Statistics Rapid Release, Provisional Drug Overdose Death Count* (January 12, 2022), <https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm#dashboard>.

⁴⁰ National Institute on Drug Abuse, *Overdose Death Rates* (Jan. 2022), <https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates>.

following the COVID-19 lockdowns, the most overdose deaths ever recorded in a one-year span.⁴¹

The devastating consequences of this crisis for amici’s communities goes beyond overdoses. Open-air drug markets and public drug use “are major contributors to the trauma, insecurity, and frustration experienced by many of those who spend time” in communities struck by the opioid epidemic.⁴² Indeed, there is no greater illustration of those realities than the Tenderloin neighborhood in San Francisco. The Tenderloin, with a population of 45,587 within a square mile, is the most densely populated area of San Francisco.⁴³ The explosion in drug use in the Tenderloin has led to several public health crises, including streets littered with feces, used needles, trash, and rodent infestations.⁴⁴ Communicable diseases spread more easily in this environment, including COVID-19, but also tuberculosis, hepatitis, and HIV.⁴⁵ “Tenderloin residents are disproportionately affected by a number of health issues including low birth weight,

⁴¹ Centers for Disease Control and Prevention, *Drug Overdose Deaths in the U.S. Top 100,000 Annually* (Nov. 2021), https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2021/20211117.htm.

⁴² *A Report from the San Francisco Street-Level Drug Dealing Task Force* (Jun. 2021), [https://oewd.org/sites/default/files/SF%20Street-Level%20Drug%20Dealing%20Task%20Force%20Report%20\(June%2030%202021\).pdf](https://oewd.org/sites/default/files/SF%20Street-Level%20Drug%20Dealing%20Task%20Force%20Report%20(June%2030%202021).pdf).

⁴³ Christopher Cook, *What Crowding Looks Like During a Pandemic: Dismal Days in the Tenderloin*, S.F. PUB. PRESS (Aug. 8, 2020), <https://www.sfpublicpress.org/what-crowding-looks-like-during-a-pandemic-dismal-days-in-the-tenderloin/>.

⁴⁴ Adam Andrzejewski, *Mapping San Francisco's Human Waste Challenge - 132,562 Cases Reported In The Public Way Since 2008*, FORBES (Apr. 2019), <https://www.forbes.com/sites/adamandrzejewski/2019/04/15/mapping-san-franciscos-human-waste-challenge-132562-case-reports-since-2008/?sh=5e1bb4655ea5>; *Mapping San Francisco's Homeless Hypodermic Needle Challenge - 30,000 Case Reports Of Needles In The Public Way Since 2011*, OPENTHEBOOKS.COM (Apr. 2019), <https://www.openthebooks.com/mapping-san-franciscos-homeless-hypodermic-needle-challenge--30000-case-reports-of-needles-in-the-public-way-since-2011/>.

⁴⁵ Kevin Fagan, *Overcrowding on San Francisco's Tenderloin Streets — A Bad Scene Getting Worse in the Coronavirus Crisis*, SF CHRONICLE (Apr. 2020), <https://www.sfchronicle.com/bayarea/article/Overcrowding-on-San-Francisco-s-Tenderloin-15193473.php>.

heart disease, drug overdose, [and] suicide.”⁴⁶ And they lack the services necessary to combat these health crises. “[T]here are many unmet community health needs that the[Tenderloin] struggles with, thus engendering a cycle of poverty and worsening health outcomes, and still more poverty.”⁴⁷

To contain the disastrous impact the opioid epidemic has had in amici’s communities, the U.S. must turn off the spigot and stop the flow of illegal drugs from Mexico. And to do that, we must confront Defendants’ complicity in arming the drug syndicates responsible for blanketing our communities with these drugs.

CONCLUSION

Defendants supply the guns that Mexican cartels use to wage war on each other, killing innocent bystanders in the process. Those cartels, in turn, supply the drugs that have been killing amici’s community members at record rates. Plaintiff’s lawsuit survives Defendants’ motion to dismiss on the merits. But, it is also of exceptional significance for amici, who face the destruction and devastation wrought with Defendants’ guns every day. The Court should deny Defendants’ motion to dismiss.

Dated: January 31, 2022

Respectfully submitted,

Amici Curiae

By their attorneys,

/s/ DRAFT

⁴⁶ *Harder Company Community Research, supra* note __, at 9-10.

⁴⁷ *Harder Company Community Research, supra* note __, at 5.

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BRIEF OF DISTRICT ATTORNEYS AS *AMICI CURIAE* IN SUPPORT OF
PLAINTIFF’S OPPOSITION TO DEFENDANTS’ MOTIONS TO
DISMISS..... 1

I. INTEREST OF THE AMICI CURIAE 1

II. INTRODUCTION 1

III. THIS COURT HAS JURISDICTION OVER DEFENDANTS BECAUSE
THEIR GUN SALES TO MEXICO ARE CAUSING PROFOUND
HARM HERE 2

A. The guns that Defendants sell into Mexico return to the U.S. and wreak havoc in
amici’s communities 2

B. The Guns Defendants Sell into Mexico Facilitate the flow of illicit drugs from
Mexico to the U.S. 7

1. Defendants’ guns are integral to Mexican cartels’ drug trafficking 7

2. Mexican cartels Use Defendants’ Guns to Protect their drug operations in
amici’s communities 10

3. The Fentanyl Mexican Cartels Are importing Using Defendants’ Guns Is
Causing Acute Harm in Our Communities 13

CONCLUSION..... 15

CERTIFICATE OF SERVICE 1

CERTIFICATE OF SERVICE

I, Ellen Leonida, hereby certify that this document filed through ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) on January 31, 2022.

/s/ DRAFT

Ellen Leonida

