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WLF Urges Supreme Court to Hear Case About Proximate Cause and Aiding-and-Abetting Liability

(*Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*)

“The First Circuit’s decision ignores two basic principles of tort law.”

—John Masslon, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to hear an important case about proximate cause and aiding-and-abetting liability. WLF’s amicus brief explains why the Court should hear the case and reverse the United States Court of Appeals for the First Circuit.

The case arises from the drug-cartel violence currently disrupting daily life in Mexico. Unhappy that it is having to pay for increased police activity, Mexico sued several U.S. firearms manufacturers for allegedly causing the violence. According to Mexico, the firearms manufacturers should have stopped making AR-15s, imposed universal background check requirements, and stopped citizens from buying multiple firearms. Their failure to do so, Mexico alleges, allowed for the straw purchase of firearms and the smuggling of those firearms into Mexico. From there, drug cartels used the firearms to commit violent crimes, leading to the increased spending by Mexico.

In its amicus brief supporting the firearms manufacturers, WLF argues that Mexico failed to plead proximate cause. Mexico’s eight-step Rube-Goldberg theory of proximate cause fails at every step. The firearms manufacturers’ legal conduct of making and selling firearms was not the proximate cause of Mexico’s injuries. The attenuated causal chain included criminal actions and resulted in only derivative harm. The Supreme Court has held that is insufficient to plead proximate cause.

The brief also describes why the First Circuit’s holding that the firearms manufacturers can be held liable for aiding-and-abetting liability is wrong. Just last term in *Twitter v. Taamneh*, the Supreme Court held that companies cannot be held liable under an aiding-and-abetting theory when criminals use lawful products in an unlawful manner. Here, Mexico alleges that the firearms manufacturers can be held liable for making and selling lawful products that criminals misused. As that conflicts with *Twitter*, the Court should grant the petition and hear this important case.

Celebrating its 47th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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