

US District Court dismisses the case filed by Mexico against the US weapons industry regarding non-contractual obligations

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On 30 September 2022, a US District Court in Boston (Massachusetts, USA) dismissed the case filed by Mexico against the US weapons manufacturers regarding non-contractual obligations (among them, negligence and unjust enrichment). According to Reuters, the reason given by the judge to dismiss the case is that “federal law [Protection of Lawful Commerce in Arms Act] ‘unequivocally’ bars lawsuits seeking to hold gun manufacturers responsible when people use guns for their intended purpose” and that none of the exceptions contained therein applied.

One statement worthy of note as stated in multiple news media is: “While the court has considerable sympathy for the people of Mexico, and none whatsoever for those who traffic guns to Mexican criminal organizations, it is duty-bound to follow the law.”

The full case citation is Estados Unidos Mexicanos (plaintiff) vs. 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), Case 1:21-cv-11269, filed in 2021.

In a nutshell, the allegations made by Mexico are the following (as stated in the complaint):

1. Defendants have legal duties to distribute their guns safely and avoid arming criminals in Mexico;
2. Defendants are fully on notice that their conduct causes unlawful

trafficking to Mexico;

3. Defendants actively assist and facilitate trafficking of their guns to drug cartels in Mexico;
4. Defendants actively assist and facilitate the unlawful tracking because it maximizes their sales and profits;
5. The Government has taken reasonable measures to try to protect itself from defendants' unlawful conduct;
6. Defendants cause massive injury to the government.

Claims for relief are (as stated in the complaint):

Negligence, public nuisance, defective condition – unreasonably dangerous, negligence *per se*, gross negligence, unjust enrichment and restitution, violation of CUTPA [Connecticut Unfair Trade Practices Act], Violation of Mass. G.L. c. 93A [Massachusetts Consumer Protection Act], punitive damages.

In addition to the argument given by the judge, I believe that it would be very hard to establish personal jurisdiction over the defendants. Think for example of the minimum contacts and the reasonableness test, in particular what are the contacts of the defendants with the state of Massachusetts (but see for example: Smith & Wesson is indeed based in Massachusetts until 2023), the existence of justified expectations that may be protected or hurt, and the forum State's [the United States of America} interest in adjudicating the dispute.

Moreover, and aside from jurisdictional issues, given that the actual damage occurred overseas, an important issue would be to prove the causation link between the conduct of the defendants and the damage. This will prove particularly difficult considering all the intermediaries that exist in the weapons' trade (legal and illegal, second-hand sales, pawn shops, etc.).

Nevertheless, this is a very interesting initiative and perhaps it is a battle worth fighting for (if only to raise public awareness). One thing is for sure: the Mexican Government has shown its increasing concern about the illicit traffic of firearms in its territory and its commitment to end it.

The Mexican Federal Government will appeal the judgment. The official statement is available [here](#).

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