

App No. \_\_\_\_\_

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IN THE  
**Supreme Court of the United States**

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Mark and Leah Gustafson, individually and as administrators and personal  
representatives of the Estate of James Robert (“J.R.”) Gustafson,

*Applicants*

v.

Springfield, Inc., d/b/a Springfield Armory, *et al.*

*Respondents.*

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**On Application for an Extension of Time to File Petition for a Writ of  
Certiorari to the Supreme Court of Pennsylvania**

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June 10, 2025

### **Corporate Disclosure Statement**

Pursuant to Supreme Court Rule 29.6, Mark and Leah Gustafson and the Estate of James Robert (“J.R.”) Gustafson state that they individuals and the estate of an individual. They have no parent corporation and that no publicly held company owns 10% or more of Applicants’ stock.

To the Honorable Samuel A. Alito, Jr., as Circuit Justice for the United States Court of Appeals for the Third Circuit:

In accordance with this Court’s Rules 13.5, 22, 30.2, and 30.3, Applicants Mark and Leah Gustafson and the Estate of James Robert (“J.R.”) Gustafson respectfully request that the time to file their petition for a writ of certiorari be extended for 30 days, up to and including Wednesday, July 23, 2025. The Supreme Court of Pennsylvania issued its opinion on March 31, 2025 (Appendix). Absent an extension of time, the petition would be due on June 23, 2025. The jurisdiction of this Court is based on 28 U.S.C. 1257(a). This request is unopposed by Respondents. The United States of America indicated that it took no position on the request.

### **Background**

This case presents exceptionally important questions of federalism, the Tenth Amendment, and the Commerce Clause: Whether the Protection for Lawful Commerce in Arms Act, 15 U.S.C. §§ 7901-7903 (“PLCAA”) may, in accordance with the Tenth Amendment and federalism principles, preempt state law when developed through state judicial decision-making even if it does not preempt identical laws that are the product of legislative action without intruding on essential aspects of state sovereignty; and whether the regulation of civil suits, when authorized by the state courts but not when authorized by state statute, is within Congress’s powers pursuant to the Commerce Clause. Applicants contend that, by barring the cause of action presented here, PLCAA exceeds the congressional commerce power and violates federalism principles because it impermissibly dictates when state law will

be recognized as legitimate by imposing congressional preferences upon the States by preempting some of those laws based on which part of state government established that law. It therefore invades core authorities that reside in the States not subject to federal regulation and lies outside of what may legitimately be described as commerce.

PLCAA generally prohibits a “qualified civil liability action” from being maintained “in any Federal or State court.” 15 U.S.C. § 7902(a). A “qualified civil liability action” is:

a civil action or proceeding ... brought by any person against a manufacturer or seller of a [firearm distributed in interstate or foreign commerce] ... for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a [firearm distributed in interstate or foreign commerce] by the person or a third party.

15 U.S.C. § 7903(5)(A).

However, in what is denominated the “predicate exception,” the prohibition on qualified civil liability actions recedes when a plaintiff adequately alleges that a “manufacturer or seller of [firearms transported in interstate or foreign commerce] knowingly violated a State or Federal statute applicable to the sale or marketing of [firearms], and the violation was the proximate cause of the harm for which relief is sought.” 15 U.S.C. § 7903(5)(A)(iii). PLCAA does not limit what liability standards a statute may adopt.

Thus, if there is applicable state statutory law, the operative section of PLCAA is without effect, and a State may impose the exact same liability that PLCAA would otherwise prohibit if it the product of a judicial decision rather than a statute. The

distinction PLCAA draws, between judicial and legislative decisions is no accident but an essential even if flawed aspect of the statute’s “basic design.” *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, No. 23-1141, 2025 WL 1583281, at \*10 (U.S. June 5, 2025) (Jackson, J., concurring) (describing that “basic design” as “preserv[ing] the primacy of the political branches—both state and federal—in deciding which duties to impose on the firearms industry.”).

Respondent Springfield, Inc. negligently manufactured, and Respondent Saloom Department Store negligently sold, a defective firearm that was accidentally used by a 14-year-old juvenile to shoot and kill thirteen-year-old J.R. Gustafson. In response to Applicants’ lawsuit, Springfield Armory and Saloom Department Store (“Respondents”) alleged PLCAA precludes any civil suit in this case in either federal or state court, because it depended on judicial interpretation of state common law, rather than the PLCAA’s exception for legislatively authorized causes of action.

On March 20, 2016, the juvenile shooter in this case found a semiautomatic firearm, manufactured and sold by Respondents, with the ammunition magazine removed. Under the belief that the firearm could not discharge without a magazine, the juvenile picked up the weapon and fired it in the direction of J.R. Unbeknownst to the juvenile, the firearm was defectively designed because it lacked a magazine disconnect safety. One live round, which remained in the chamber, discharged when the juvenile pulled the trigger and killed J.R.

Mark and Leah Gustafson, J.R.’s parents (the “Gustafsons”) filed a complaint on March 19, 2018, individually and as Administrators and Personal Representatives

of J.R.'s estate, in the Court of Common Pleas of Westmoreland County in the Commonwealth of Pennsylvania (the "Court of Common Pleas"). The Gustafsons brought survival and wrongful death claims arising from Pennsylvania products liability law. The complaint claimed defective design, negligent design and sale, and negligent warnings and marketing with respect to the firearm, averring Defendants' actions were the proximate cause of J.R.'s death. App. 6.

Respondents moved for dismissal of the case arguing that PLCAA bars the Gustafsons' state civil liability action. App. 6. The United States intervened to defend PLCAA's constitutionality after it was challenged by the Gustafsons. On January 15, 2019, the Pennsylvania Court of Common Pleas sustained preliminary objections filed by Defendants and dismissed the Gustafsons' complaint with prejudice. App. 7. On appeal, a panel of the Superior Court held PLCAA unconstitutional because it exceeded Congress's authority under the Commerce Clause and violated the Tenth Amendment. App. 7. After granting en banc review, the Superior Court entered a split decision with four judges agreeing that PLCAA was unconstitutional, one finding PLCAA constitutional but inapplicable, and four judges finding PLCAA constitutional and sufficient to bar the Gustafson's action. App. 8. Under this ruling, a majority of five held PLCAA did not bar this lawsuit. App. 9.

On appeal, the Supreme Court of Pennsylvania vacated the order of the Superior Court and remanded the case for reinstatement of the trial court decision to sustain Defendants' preliminary objections. That Court found the Gustafsons' action

constituted a “qualified civil liability action” barred by PLCAA and did not fit within the statute’s product-liability action. App. 22, 28.

The Court further upheld PLCAA as within the congressional commerce power because lawsuits have a financial impact on the firearms industry and thus a burden on interstate and foreign commerce, App. 33, and does not violate the Tenth Amendment because it “does not command state executive officers to implement federal regulations nor does it direct state legislatures to pass any legislation.” App. 33.

The central issues in this case remain whether PLCAA represents a constitutionally valid exercise of congressional power over lawsuits that, based on an exception within the statute a State may concededly authorize but only when that authorization is from Congress’s preferred branch of state government.

### **Reasons For Granting an Extension of Time**

Counsel of record was not counsel for the Gustafson’s below and requires additional time to become familiar with necessary aspects of the case. Moreover, since the decision in this case by the Pennsylvania Supreme Court on March 31, 2025, Counsel of Record, a solo practitioner, has had substantial commitments in pending cases and other legal matters, including with prospective deadlines highlighted:

- A motion for a new trial in *McCluskey v. Jansesen*, No. 2022CV30533, filed in the Colorado district court on April 1, 2025, a reply brief on April 29, 2025, and a motion for expedited consideration on June 2, 2025;

- An opening brief in *Whitt v. Colo. Retina Assoc.*, No. 2024CA1256, filed in the Colorado Court of Appeals on April 4, 2025 and a reply brief filed on May 30, 2025;
- Two opening briefs in *Miolen v. Stadie*, Nos. 2024CA1491 and 2024CA55, filed in the Colorado Court of Appeals on April 9, 2025 and May 16, 2025, respectively, with reply briefs due **June 25** and **July 2, 2025**, respectively;
- A petition for a writ of certiorari in *America West Bank Members v. State of Utah*, No. 24-1086, filed in the Supreme Court of the United States on April 15, 2025 and scheduled for conference on **June 16, 2025**;
- Two motions for summary judgment in *BNSF Railway Co. v. Magin*, No. 2:22-CV-68, filed in the U.S. District Court for the Eastern District of Missouri on May 14, 2025, as well as a response brief to a motion for relief and a sur-reply filed on May 5 and May 22, 2025, respectively, as well as a response brief to a motion to exclude experts on May 26, 2025. In addition, a response brief to the opposing party's own summary judgment motion is due on **June 13, 2025** and a reply in support of my client's summary judgment motions are due **June 25, 2025**;
- Written legislative testimony about the constitutionality of a proposed bill, H.B. 677, in the Louisiana House of Representatives, filed on May 27, 2025;

### **Conclusion**

Applicant requests that the time to file a writ of certiorari in the above-captioned matter be extended 30 days to and including July 23, 2025.



Dated this 10th day of June, 2025.

Respectfully submitted,

/s/ Robert S. Peck

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