

No. 20-843

IN THE
Supreme Court of the United States

NEW YORK STATE RIFLE & PISTOL ASSOCIATION, INC., et al.,
Petitioners,

v.

KEVIN P. BRUEN, In His Official Capacity As
Superintendent Of New York State Police, et al.,
Respondents.

**On Writ of Certiorari to the United States
Court of Appeals for the Second Circuit**

**BRIEF OF MEMBERS OF
THE BUSINESS COMMUNITY AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

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TABLE OF CONTENTS

INTEREST OF *AMICI CURIAE* 1

INTRODUCTION AND SUMMARY OF
ARGUMENT 3

ARGUMENT 6

 I. INCREASED GUN PREVALENCE AND GUN
 VIOLENCE CAUSES BUSINESSES TO FACE
 A VARIETY OF SERIOUS COSTS AND
 RISKS. 7

 II. EXPANDED ACCESS TO CONCEALED
 CARRY IS ASSOCIATED WITH INCREASED
 GUN PREVALENCE AND GUN VIOLENCE..... 19

 A. LAX CONCEALED CARRY LAWS ARE
 ASSOCIATED WITH HIGHER LEVELS
 OF VIOLENT CRIME..... 20

 B. LAX CONCEALED CARRY LAWS DO
 NOT INCREASE SAFETY..... 24

CONCLUSION 27

TABLE OF AUTHORITIES

Cases

<i>Atain Specialty Ins. Co. v. Sai Darshan Corp.</i> , 226 F. Supp. 3d 807 (S.D. Tex. 2016)	15
<i>Axelrod v. Cinemark Holdings, Inc.</i> , 65 F. Supp. 3d 1093 (D. Colo. 2014)	6, 12, 14
<i>District of Columbia v. Heller</i> , 554 U.S. 570 (2008)	3
<i>Hudson Specialty Ins. Co. v. Snappy Slappy LLC</i> , 2019 WL 1938801 (M.D. Ga. May 1, 2019)	15
<i>Kachalsky v. Cty. of Westchester</i> , 701 F.3d 81 (2d Cir. 2012)	4
<i>Lopez v. McDonald’s Corp.</i> , 193 Cal. App. 3d 495 (1987)	11, 12
<i>McDonald v. City of Chicago, Ill.</i> , 561 U.S. 742 (2010)	5
<i>McKown v. Simon Prop. Grp. Inc.</i> , 622 F. App’x 621 (9th Cir. 2015)	14
<i>Nowlan v. Cinemark Holdings, Inc.</i> , 2016 WL 4092468 (D. Colo. June 24, 2016)	14
<i>Phillips v. Lucky Gunner, LLC</i> , 84 F. Supp. 3d 1216 (D. Colo. 2015)	11

Piazza v. Kellim,
377 P.3d 492 (Or. 2016) 13, 14

*Rocky Mountain Planned Parenthood,
Inc. v. Wagner*,
467 P.3d 287 (Colo. 2020) 14, 15

Shadow v. Fed. Express Corp.,
2021 WL 2430795
(Ga. Ct. App. June 15, 2021) 14

Statutes

Protection of Lawful Commerce in Arms
Act of 2005, Pub. L. No. 109-92,
119 Stat. 2095 11

Other Authorities

*2021 on track to be America's deadliest
year of gun violence in two decades*,
CBS News (June 24, 2021),
[https://www.cbsnews.com/news/
2021-deadliest-year-gun-violence/](https://www.cbsnews.com/news/2021-deadliest-year-gun-violence/) 4

Charles C. Branas et al., *Investigating
the Link Between Gun Possession
and Gun Assault*, 99 Am. J. Pub.
Health 2034 (2009)..... 22

Karen Brock & Marty Langley, Violence
Policy Center, *License to Kill IV:
More Guns, More Crime* (June 2002) 19

- Keith Coffman, *Colorado's Civil Litigation over Movie Theater Massacre Ends*, Reuters (Sept. 14, 2016), <https://www.reuters.com/article/us-colorado-shooting-lawsuit/colorados-civil-litigation-over-movie-theater-massacre-ends-idUSKCN11K0B6> 13
- Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities*, 39 Fordham Urb. L.J. 1695 (2012) 3
- James Densley and Jillian Peterson, *We Can Do More to Prevent Mass Workplace Shootings Like Aurora, Illinois*, USA Today (Feb. 21, 2019), <https://bit.ly/3ks0oaQ> 9
- James David Dickson, *Detroit man faces 3 felony cases alleging murder, gun crimes*, Detroit News (Oct. 20, 2020) <https://www.detroitnews.com/story/news/local/detroit-city/2020/10/20/detroit-man-faces-3-felony-cases-alleging-murder-gun-crimes/3661755001> 23

John J. Donohue et al., <i>Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis</i> , 16 J. Empirical Legal Stud. 198 (2019).....	18, 19, 20
Yasemin Irvin-Erickson et al., <i>A Neighborhood-Level Analysis of the Economic Impact of Gun Violence</i> (June 2017).....	8, 9
Everytown, <i>The Economic Cost of Gun Violence</i> (Feb. 17, 2021)	7, 10
Everytown, <i>The Impact of Gun Violence on Business in the United States</i> , https://everytownsupportfund.org/initiatives/business-leaders/impact-of-gun-violence-on-business/ (last visited August 5, 2021)	10
Fed. Bureau of Investigation, U.S. Dep't of Justice, <i>A Study of Active Shooter Incidents in the United States Between 2000 and 2013</i> (2013)	4
Fed. Bureau of Investigation, <i>FBI Releases Study on Active Shooter Incidents</i> (Sept. 24, 2014), https://www.fbi.gov/news/stories/fbi-releases-study-on-active-shooter-incidents	9

- Mark Follman, et al., *The True Cost of Gun Violence in America*,
 MotherJones (Apr. 15, 2015),
<https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>..... 11
- Mark Gius, *Using the Synthetic Control Method to Determine the Effects of Concealed Carry Laws on State-Level Murder Rates*, 57 Int'l Rev. L. & Econ. 1 (2019)..... 21
- Robert T. Greenbaum & George E. Tita,
The Impact of Violence Surges on Neighborhood Business Activity,
 41 Urb. Stud. 2495 (2004)..... 8
- Gun Violence Archive,
<https://www.gunviolencearchive.org/>
 (last visited Aug. 9, 2021) 4
- David Hemenway & Sara J. Solnick,
The Epidemiology of Self-Defense Gun Use: Evidence from the National Crime Victimization Surveys 2007-2011, 79 Preventive Med. 22 (2015) 21, 22
- Noor Zainab Hussain & Carolyn Cohn,
Mass Shooting Insurance in High Demand as U.S. Emerges from Lockdown, Reuters (May 13, 2021),
<https://www.reuters.com/article/us-usa-shooting-insurance-focus-idCAKBN2CU1NO> 15, 16

Arthur L. Kellermann et al., <i>Injuries and Deaths Due to Firearms in the Home</i> , 45 J. Trauma 263 (Aug. 1998).....	22
Marjorie B. McElroy & Peichun Wang, <i>Seemingly Inextricable Dynamic Differences: The Case of Concealed Gun Permit, Violent Crime and State Panel Data</i> (June 24, 2017)	21
Minn. Coal. for Common Sense, <i>The Economic Cost of Gun Violence in Minnesota</i> (2016).....	16
Juan Sebastian Munoz & Ruchi Singh, <i>Unraveling Place-Based Preferences: Do School Shootings Erode Property Values?</i> (July 2018)	9
Sarah Nassauer & Chip Cutter, <i>Walmart Workers' New Security Threat Is Active Shooters, Not Shoplifters</i> , Wall St. J. (Aug. 5, 2019), https://www.wsj.com/articles/walmart-workers-new-security-threat-is-active-shooters-not-shoplifters-11564941183	10
Rebecca Rhynhart, <i>Report on the Economic Impact of Homicides</i> (2019).....	9

- William Saletan, *Friendly Firearms: How an Armed Hero Nearly Shot the Wrong Man*, Slate (Jan. 11, 2011), <https://slate.com/technology/2011/01/joe-zamudio-and-the-gabrielle-giffords-shooting-how-an-armed-hero-nearly-shot-the-wrong-man.html>23
- Michael Siegel & Claire Boine, Rockefeller Inst. of Gov't, *What Are the Most Effective Policies in Reducing Gun Homicides?* (Mar. 29, 2019) 20
- Michael Siegel et al., *Easiness of Legal Access to Concealed Firearm Permits and Homicide Rates in the United States*, 107 Am. J. Pub. Health 1923 (2017) 17, 18, 20
- Christina Stacy et al., 10 *The Impacts of Gunshots on Place-Level Business Activity*, 10 Crime Sci. (forthcoming 2021), <https://crimesciencejournal.biomedcentral.com/track/pdf/10.1186/s 40163-021-00146-9.pdf>8

<i>Security guard's shots killed co-worker, patient in Munster hospital room shooting, prosecutor says, Chicago Tribune (June 16, 2020) https://www.chicagotribune.com/suburbs/post-tribune/ct-ptb-munster-community-hospital-shooting-st-0617-20200616-256nfm2vgndyffsr6bu25id4qa-story.html.....</i>	23
U.S. Congress Joint Economic Committee Democratic Staff, <i>A State-by-State Examination of the Economic Costs of Gun Violence</i> (Sept. 18, 2019)	7
U.S. Dep't of Labor, Bureau of Labor Statistics, <i>Census of Fatal Occupational Injuries (CFOI). Table A-2: Fatal occupational injuries resulting from transportation incidents and homicides, all United States</i> (2017) https://www.bls.gov/iif/oshwc/cfoi/cftb0314.htm	9
Violence Pol'y Ctr., <i>Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use</i> (May 2020).....	21
Violence Pol'y Ctr., <i>When Men Murder Women: An Analysis Of 2014 Homicide Data</i> (Sept. 2016).....	22

- Daniel W. Webster et al., Johns Hopkins Bloomberg School of Public Health, *Firearms on College Campuses: Research Evidence and Policy Implications* (Oct. 15, 2016)..... 19, 20
- Randy Wimbley & David Komer, *Woman shot at by mother who hit her own toddler in Uber Eats dispute says what happened*, Fox News (Nov. 11, 2020), <https://www.fox2detroit.com/news/woman-shot-at-by-mother-who-hit-her-own-toddler-in-uber-eats-dispute-says-what-happened> 24
- Katie Young & Contessa Brewer, *Rise in Mass Shootings Leads To ‘Rapid Growth’ in Active Shooter Insurance*, CNBC (Jan. 10, 2020), <https://www.cnbc.com/2020/01/10/rise-in-mass-shootings-boosts-active-shooter-insurance.html> 16
- Paul R. Zimmerman, *The Deterrence of Crime Through Private Security Efforts: Theory and Evidence*, 37 Int’l Rev. L. & Econ. 66 (2014) 10, 20

INTEREST OF *AMICI CURIAE*

Amici Curiae submit this brief to provide important context regarding how *Amici* and others in the business community bear the risks and costs of increased gun violence in states with no or few restrictions on carrying concealed firearms in public.¹

Amici include the following businesses and business organizations:

- Amalgamated Bank is a wholly-owned subsidiary of Amalgamated Financial Corp., a publicly traded company. Amalgamated Bank has multiple physical branches around the country. As of its latest regulatory filings, Amalgamated Bank has total deposits amounting to \$5.7 billion, and its trust business held \$37.5 billion in assets under custody and \$15.7 billion in assets under management.
- The Minneapolis Regional Chamber is the largest and most diverse business organization in the Minneapolis-Saint Paul region. With 1,500 member organizations, the Chamber is the region's chief leading advocate to improve the economy and quality of life for its numerous members. The Chamber's members include businesses in numerous sectors, including, but not limited to, retail, real estate, banking, and communications media.

¹ Pursuant to Supreme Court Rule 37.6, counsel for *Amici Curiae* states that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party, or any other person other than *Amici Curiae* or its counsel, made a monetary contribution intended to fund the preparation or submission of this brief. All parties have consented to the filing of this brief.

- Meredith Management is a leader in real estate development and management. Meredith Management has developed, owned, and managed more than 3,000 apartments, 6,000 condominiums and 2 million square feet of commercial space, including a 400,000-square-foot, 25-story office building; retail shopping centers ranging from 10,000 to 20,000 square feet; and a 1.3 million-square-foot office and industrial property. Meredith Management is currently co-developing a \$1 billion, 1 million-square-foot, retail and life science lab development.

Amici's interests in this case are strong. First, as owners of commercial businesses or members of business organizations in areas affected by mass shootings and other acts of gun violence, *Amici* and others like them must bear significant costs when gun violence occurs in their communities. *Amici* also experience heightened risks from gun violence because commercial businesses are the most common site of active-shooter incidents. Because lax concealed carry laws result in increased gun violence, the financial well-being of small and large businesses alike, as well as the safety of their employees and customers, depends on laws like New York Penal Law § 400.00, which provide commonsense regulation and limitations on individuals' ability to procure licenses to carry concealed firearms.

Second, *Amici* have a broader interest in protecting their employees, customers, and business partners from the negative effects of increased gun violence caused by less restrictive public carry laws. As discussed below, there is ample evidence that more lax concealed carry regimes lead to more gun violence and worse economic outcomes for business. An increase in

concealed carry permits will harm businesses and the communities they serve.

For the above reasons, *Amici* have a substantial interest in this case.

INTRODUCTION AND SUMMARY OF ARGUMENT

Our nation has long regulated arms in public, including with many states requiring a showing of good cause before licensing an individual to carry a concealed weapon in public. Such commonsense regulations have existed throughout the country since before our nation's founding. *See, e.g.,* Saul Cornell, *The Right to Carry Firearms Outside of the Home: Separating Historical Myths from Historical Realities*, 39 *Fordham Urb. L.J.* 1695, 1719-25 (2012). Consistent with that longstanding history, this Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008), specifically cautioned that the Second Amendment does not provide the "right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose." *Id.* at 626.

The Second Amendment's application to longstanding common-sense gun safety regulations like the good-cause law at issue in this case will have a profound impact on this nation, including on *Amici*. *Amici* include businesses and business organizations that will suffer massive economic costs and other externalities should the Second Amendment be construed to prohibit common-sense solutions like the good-cause concealed carry regime Petitioners challenge here. Should such laws be invalidated, *Amici* expect the resulting influx of concealed firearms throughout public life will lead to increased violence

nationwide, causing serious harm to *Amici*, their employees, their customers, and the communities where these businesses operate.

In this case, Petitioners invite this Court to cast aside centuries of history and decades of precedent by prohibiting nationwide *any* government—federal, state or local—from requiring a showing of “good cause” before permitting individuals to obtain permits authorizing them to carry. Good cause is not a high bar—but it is an important one. Traditionally, the good-cause standard has been required for applicants to carry a handgun for target practice, hunting, or a particularized need for self-protection. With respect to New York’s analogous “proper cause” requirement for concealed carry licenses, the Second Circuit correctly recognized that New York has “substantial, indeed compelling, governmental interests in public safety and crime prevention,” and that New York’s “proper cause requirement” “is substantially related to these interests.” *Kachalsky v. Cty. of Westchester*, 701 F.3d 81, 97 (2d Cir. 2012). The Second Circuit was right.

Amici reject Petitioners’ efforts to hamstring the ability of governments to protect their communities by implementing common-sense gun safety regulations—particularly when this country is in the midst of the deadliest year of gun violence in the last two decades.² *Amici* know first-hand the pain that gun violence has inflicted upon their communities back

² *2021 on track to be America’s deadliest year of gun violence in two decades*, CBS NEWS (June 24, 2021), <https://www>.

home and throughout our nation. In this brief, *Amici* advise the Court as to the substantial evidence showing that lax concealed carry laws like the regime Petitioners seek to impose result in higher rates of gun violence. That violence in turn can inflict substantial harms on businesses and their communities.

It is well established that commercial businesses are the most common locations where active-shooter incidents occur. Fed. Bureau of Investigation, U.S. Dep't of Justice, *A Study of Active Shooter Incidents in the United States Between 2000 and 2013* 13-15 (2013). Consequently, commercial businesses bear a disproportionate share of the risks and costs associated with the increased violence resulting from lax concealed carry laws. These include the businesses in the properties owned, developed, and managed by *Amicus* Meredith Management in its 2 million square feet of commercial real estate. The increased gun violence also presents major risks to companies like *Amicus* Amalgamated Bank, which has multiple brick-and-mortar bank branches around the country, and *Amicus* Minneapolis Regional Chamber's 1,500 business members in real estate, retail, communications, and many other sectors.

Businesses must grapple with the physical and psychological effects of gun violence on their employees; they must consider and implement infrastructure and security improvements to reduce the risks of shooting and the harms in the event a shooting does

cbsnews.com/news/2021-deadliest-year-gun-violence/; Gun Violence Archive, <https://www.gunviolencearchive.org/> (last visited Aug. 9, 2021).

occur on their premises; and they must deal with potential legal exposure that results from shootings at commercial establishments, as well as major financial impacts when insurance policies fail to cover the costs of such shootings and litigation. The rising frequency of gun violence at places of business in recent years has exacerbated these risks and costs for *Amici* and businesses like them.

Amici urge the Court to adhere to its promise that the Second Amendment “by no means eliminates” the ability of Americans, and their governments, “to devise solutions to social problems that suit local needs and values.” *McDonald v. City of Chicago, Ill.*, 561 U.S. 742, 785 (2010). This promise leaves room for state and local governments to implement restrictions on firearms outside of the home—including on potentially dangerous carrying of concealed weapons. A ruling that risks prohibiting sensible concealed carry policies would silence the voices of businesses and their stakeholders across the country—many of whom will ultimately bear a disproportionate share of the costs of the resulting gun violence. This Court should affirm.

ARGUMENT

Amici’s interest in this case is simple and straightforward. Increased gun violence creates serious costs for businesses. Laxer concealed carry regimes correlate with increased guns and violence. Communities across this country have made different choices about their concealed carry laws. And the constituents in each of those communities—including businesses like *Amici*—have to bear the risks and costs of those decisions. This Court should consider

these costs and the serious impacts they have on businesses around the country when assessing the constitutionality of New York State’s “proper cause” concealed carry regime and whether that regime is historically grounded and properly tailored. It is.

I. Increased Gun Prevalence And Gun Violence Causes Businesses To Face A Variety Of Serious Costs And Risks.

Lax concealed carry laws have a major impact on business. As *Amici* discuss in more depth *infra* in Part II, these laws result in a statistically significant increase of gun violence that poses risks and threats to businesses and communities nationwide. As a consequence, these laws dramatically decrease a community’s economic attractiveness and increase the operating costs for businesses. Communities that face increased gun violence also face decreased economic opportunities in the form of lost jobs, business growth, and business retention. Businesses that do continue to operate in high crime areas must make costly investments in insurance, employee support and benefits, and improved security infrastructure. And even after making investments to improve the safety of their employees and customers, businesses *still* face potentially devastating legal liability for gun violence that occurs on premises. In fact, the very act of investing in gun violence-related security can expose businesses to *increased* legal liability. See *Axelrod v. Cinemark Holdings, Inc.*, 65 F. Supp. 3d 1093, 1102 (D. Colo. 2014) (“[T]he fact that approximately 25% of Cinemark’s theaters were concerned enough to hire extra security is part of the totality of what Cinemark presumably knew or should have known at the

time.”). Even the risk that more customers and employees can walk into brick-and-mortar establishments with guns creates massive public safety problems to which businesses on the front lines will have to respond.

Staggeringly, the overall annual economic impact of gun violence on taxpayers, businesses, communities, and individuals in the United States amounts to an estimated \$280 billion. Everytown, *The Economic Cost of Gun Violence 2* (Feb. 17, 2021); see also U.S. Congress Joint Economic Committee Democratic Staff, *A State-by-State Examination of the Economic Costs of Gun Violence 2* (Sept. 18, 2019) (estimating that gun violence costs \$229 billion annually). By any metric, a more lax concealed carry licensing regime would create an even more expensive and riskier climate for business owners around the country, many of whom are already operating in tenuous times with the expansion of e-commerce and the devastating COVID-19 pandemic. The national right-to-carry regime Petitioners seek to impose will harm businesses in four principal ways.

1. Diminished Economic Opportunity. The increased crime and violence resulting from more lax concealed carry regimes affects not just individuals and businesses, but also entire communities, depriving neighborhoods of economic opportunities and prosperity. That in turn makes it harder for businesses to open, survive, and thrive.

Academic research confirms that surges in homicides in certain neighborhoods lead to “less business formation and a downsizing of existing businesses” in those areas, particularly among retail and personal

service businesses—often brick-and-mortar establishments that have already taken substantial hits from the growth of online commerce and the pandemic. Robert T. Greenbaum & George E. Tita, *The Impact of Violence Surges on Neighborhood Business Activity*, 41 Urb. Stud. 2495, 2508-09 (2004). Heightened violence can “elicit greater fear of violent victimisation,” making customers more “likely to alter their routine activities and conduct them in what they perceive as a safer community.” *Id.* at 2509. Customer hesitancy and fear in turn “directly impact the bottom line of businesses in the affected communities.” *Id.*

Upticks in gun violence in particular have been found to increase the rate of business failure and turnover—both in areas with high initial levels of shootings and those that start out relatively crime-free. Christina Stacy et al., *The Impacts of Gunshots on Place-Level Business Activity*, 10 Crime Sci. (forthcoming 2021) (manuscript at 7-8), <https://crimesciencejournal.biomedcentral.com/track/pdf/10.1186/s40163-021-00146-9.pdf>. Growing numbers of firearm homicides and gunshots in a neighborhood are also linked to decreased numbers of businesses and fewer jobs, since “people do not move to or shop in these neighborhoods and the perception of violence makes it difficult to find and retain employees.” Yasemin Irvin-Erickson et al., *A Neighborhood-Level Analysis of the Economic Impact of Gun Violence* v-vii, 10 (June 2017). In these areas, businesses frequently “choose to close earlier in the evening than desired” to stay safe and because many of their customers are afraid to shop at night. *Id.* at 11.

High rates of gun violence also influence the attractiveness of a community to new businesses. Businesses are less likely to open up stores in or relocate to communities that experience more frequent shootings. See Irvin-Erickson et al., *supra*, at 9. Increases in the incidence of firearm homicides are associated with a decrease in property values. See, e.g., *id.* at 13-14; Juan Sebastian Munoz & Ruchi Singh, *Unraveling Place-Based Preferences: Do School Shootings Erode Property Values?* 20-21 (July 2018); Rebecca Rhynhart, *Report on the Economic Impact of Homicides* 11 (2019). Residents and companies in a neighborhood wracked by gun violence often get left behind as their community's appeal to newcomers dwindles, discouraging new residents from coming and stores from opening, thus harming economic growth. All of these effects have a major impact on businesses, their customers, and their employees.

2. Direct Costs to Businesses and Their Employees. The increased gun violence that will follow a more expansive right-to-carry regime will impose substantial costs on businesses and their employees and customers. These costs are not just economic but include major human costs from the trauma and injuries gun violence inflicts on businesses and their stakeholders.

According to a 2014 FBI study, active-shooter incidents occur most often in “commercial [locations]”—*i.e.*, businesses. Fed. Bureau of Investigation, *FBI Releases Study on Active Shooter Incidents*, (Sept. 24, 2014), <https://www.fbi.gov/news/stories/fbi-releases-study-on-active-shooter-incidents>. In fact, from 2000-2013 nearly *half* of all active-shooter incidents took place in commercial environments. *Id.* And nearly

four times as many mass shootings occur at workplaces than they do at schools. James Densley and Jillian Peterson, *We Can Do More to Prevent Mass Workplace Shootings Like Aurora, Illinois*, USA Today (Feb. 21, 2019), <https://bit.ly/3ks0oaQ>. In 2017 alone, there were 351 gun homicides in U.S. workplaces—nearly one every day. U.S. Dep’t of Labor, Bureau of Labor Statistics, *Census of Fatal Occupational Injuries (CFOI). Table A-2: Fatal occupational injuries resulting from transportation incidents and homicides, all United States* (2017) <https://www.bls.gov/iif/oshwc/cfoi/cftb0314.htm>.

Businesses must grapple with the physical, psychological, and economic harms gun violence causes their employees. “Survivors of gunshot injuries experience difficulties that include psychological trauma and reduced quality of life, steep medical costs, and loss of productivity and work.” Everytown, *The Impact of Gun Violence on Business in the United States*, <https://everytownsupportfund.org/initiatives/business-leaders/impact-of-gun-violence-on-business/> (last visited Aug. 5, 2021). Across the country, loss of work caused by gun violence accounts for an estimated \$51.2 billion per year. Everytown, *The Economic Cost of Gun Violence* (Feb. 17, 2021) <https://everytownresearch.org/report/the-economic-cost-of-gun-violence/>. Businesses suffer *additional* losses “due to unfilled jobs, the value of the time supervisors spend adjusting schedules to cover for lost work, and the cost burden of recruiting and training replacements when necessary.” *Id.* These gun violence-related losses are estimated to cost employers \$528.7 million per year in employee-related expenses. *Id.*

Businesses also have to invest in infrastructure improvements to account for the risk of gun violence and crime in their neighborhoods and on their premises. The type of investments businesses must make to account for increased crime rates include security cameras, alarm systems, security personnel, and increased lighting. See Paul R. Zimmerman, *The Deterrence of Crime Through Private Security Efforts: Theory and Evidence*, 37 Int'l Rev. L. & Econ. 66 (2014). Walmart, for instance, has responded to increased crime and to active-shooter events by hiring additional security personnel and providing their employees with active-shooter training. Sarah Nassauer & Chip Cutter, *Walmart Workers' New Security Threat Is Active Shooters, Not Shoplifters*, Wall St. J. (Aug. 5, 2019), <https://www.wsj.com/articles/walmart-workers-new-security-threat-is-active-shooters-not-shoplifters-11564941183>.

Investments in crime prevention infrastructure can be made even costlier where businesses have to shut down to make them, depriving the companies and employees of vital economic resources—a particularly challenging prospect for smaller mom-and-pop businesses and companies. For example, in 2012, after a mass shooting event, the Clackamas Town Center mall in Portland, Oregon shut down its premises—including *all* 188 businesses operating within the mall—for three days during the holiday season to increase security and make repairs. Mark Follman, et al., *The True Cost of Gun Violence in America*, MotherJones (Apr. 15, 2015), <https://www.motherjones.com/politics/2015/04/true-cost-of-gun-violence-in-america/>.

3. Increased Legal Exposure. Shootings on business premises also open companies to substantial risk of legal liability. Federal law frequently shields gun manufacturers and dealers from civil liability for violence perpetrated with their weapons, as do a number of state laws. *See* Protection of Lawful Commerce in Arms Act of 2005, Pub. L. No. 109-92, 119 Stat. 2095; *see also, e.g., Phillips v. Lucky Gunner, LLC*, 84 F. Supp. 3d 1216, 1219-22 (D. Colo. 2015) (dismissing suit by victims of mass shooting against stores that sold weapons to the gunman because federal and state immunities shielded the sellers). As a result, victims of gun violence hoping to recover for their injuries have little recourse but to try to obtain compensation from deep-pocketed businesses where shootings occur. In prior decades, such suits were routinely rejected, as courts found that companies could not reasonably foresee the risk of gun violence on their property and that the attacker's actions, rather than any security failures by businesses, caused the victims' harms. *E.g., Lopez v. McDonald's Corp.*, 193 Cal. App. 3d 495, 509 (1987) (“[T]he likelihood of this unprecedented murderous assault was so remote and unexpected that, as a matter of law, the general character of McDonald's nonfeasance did not facilitate its happening.”).

But the rising frequency and destructiveness of mass shootings in recent years have changed the equation. Lawsuits accusing businesses of failing to take adequate precautions to prevent shootings are both more prevalent and more likely to survive dispositive motions. Take, for instance, a suit against the Century 16 movie theater where the 2012 mass shoot-

ing in Aurora, Colorado took place. In that case, a federal court refused to grant summary judgment to the theater, finding that “the grim history of mass shootings and killings that have occurred in more recent times” made it possible that the theater should have anticipated the risks of gun violence on its premises. *Axelrod v. Cinemark Holdings, Inc.*, 65 F. Supp. 3d 1093, 1099 (D. Colo. 2014). The court specifically distinguished older cases such as *Lopez* as grounded in an era where gun violence was a far less frequent occurrence in ordinary settings:

[W]hat was “so unlikely to occur within the setting of modern life” as to be unforeseeable in 1984 was not necessarily so unlikely by 2012. . . . The school shootings at the University of Texas in 1966, Columbine High School in 1999, and Virginia Tech in 2007 are just a few of the most highly publicized incidents. If one Googles “mass shooting incidents” one finds dozens of lists of the major incidents. For example, an article by the staff of the Los Angeles Times published on April 2, 2014 lists 31 mass shooting incidents between the San Ysidro McDonald’s disaster and the Aurora shootings. These incidents occurred in schools, businesses, military bases, shopping malls, a supermarket, on a train, in an immigration center and, as we now know, in a theater.

Id. (citation omitted). Given this “changed landscape,” the court concluded that “[o]ne might reasonably believe that a mass shooting incident in a theater

was likely enough (that is, not just a possibility) to be a foreseeable next step in the history of such acts by deranged individuals” and thus found that the foreseeability of security risks presented a triable issue of fact as to whether the theater could be held liable for negligence with respect to failing to prevent the shooting. *Id.* at 1101-03. Although the theater ultimately prevailed in lawsuits in both state and federal courts, the litigation continued for four years and required the theater to expend a considerable amount in resources and legal fees. Keith Coffman, *Colorado’s Civil Litigation over Movie Theater Massacre Ends*, Reuters (Sept. 14, 2016), <https://www.reuters.com/article/us-colorado-shooting-lawsuit/colorados-civil-litigation-over-movie-theater-massacre-ends-idUSKCN11K0B6>.

Several other courts have similarly refused to dismiss suits against businesses for their failure to adequately protect customers against the risk of gun violence on their premises. The Oregon Supreme Court, for example, reversed the dismissal of a suit against a nightclub brought after a teenager was shot “while standing in line on a public sidewalk” outside the club. *Piazza v. Kellim*, 377 P.3d 492, 494-95 (Or. 2016) (en banc). The court rejected the nightclub’s characterization of the shooting as an “indiscriminate” “random spree” and held that the “repeated—if somewhat unevenly spaced—history of violent assaults, including gun violence, at and in the neighboring vicinity” of the nightclub, along with the “risks of harm posed by that history . . . in the downtown entertainment district,” created a triable issue of fact as to whether the club should have foreseen a shooting. *Id.* at 506-07; see also, e.g., *McKown v. Simon Prop. Grp. Inc.*, 622 F.

App'x 621, 622 (9th Cir. 2015) (vacating grant of summary judgment to shopping mall operator in suit arising from mass shooting even despite lack of “evidence of prior similar criminal acts on the mall premises”); *Rocky Mountain Planned Parenthood, Inc. v. Wagner*, 467 P.3d 287, 293-94 (Colo. 2020) (finding that site of mass shooting knew of “risk of violence against its facilities,” making foreseeability of shooting a jury question, and refusing to hold that “summary judgment is required in virtually every case involving a mass shooting because the shooter’s actions [are] the predominant cause of the victims’ injuries”).

Even some courts that have dismissed such suits have only done so at the summary judgment stage, forcing business defendants to spend extensive time and resources engaging in discovery before granting them relief. *E.g.*, *Nowlan v. Cinemark Holdings, Inc.*, 2016 WL 4092468, at *3 (D. Colo. June 24, 2016); *Shadow v. Fed. Express Corp.*, 2021 WL 2430795, at *1 (Ga. Ct. App. June 15, 2021).

And where companies have upgraded their security measures in response to mass shootings, those precautions have actually been used *against* them as evidence that they knew of the risk of violence. In the Aurora shooting lawsuit, for instance, the court noted that “the fact that approximately 25% of Cinemark’s theaters were concerned enough to hire extra security is part of the totality of what Cinemark presumably knew or should have known at the time.” *Axelrod*, 65 F. Supp. 3d at 1102. Similarly, another court concluded that because the business defendant had “taken some measures to protect against the known and escalating threats of violence at its facilities,” “the likelihood of an event like that which occurred [was]

less remote and arguably more foreseeable.” *Rocky Mountain Planned Parenthood*, 467 P.3d at 294.

As these cases demonstrate, increased access to guns and increased gun violence result in greater legal and financial exposure to businesses.

4. Increased Insurance Costs. Heightened gun violence also makes it harder for businesses to obtain insurance and to make insurance claims in the wake of an attack.

Take, for instance, a store that suffers a shooting. Following a shooting in a retail setting, a store incurs a range of costs such as cleanup and rebuilding expenses, compensation for victims and families, lost income, and litigation and settlement costs. *See* Noor Zainab Hussain & Carolyn Cohn, *Mass Shooting Insurance in High Demand as U.S. Emerges from Lockdown*, Reuters (May 13, 2021), <https://www.reuters.com/article/us-usa-shooting-insurance-focus-idCAKBN2CU1NO>. While companies may look to their insurance providers to offset some of these potentially weighty outlays, those efforts may not always prove fruitful.

Existing insurance policies do not always cover the costs of a shooting. A number of policies exclude from coverage costs that typically result from gun violence, such as injuries caused by the use of a firearm or by an assault or battery. A business whose policy contains one of these exclusions, then, has no way of obtaining coverage from its provider for injuries its employees or customers may suffer on the business’s premises. *See, e.g., Hudson Specialty Ins. Co. v. Snappy Slappy LLC*, 2019 WL 1938801, at *2-3 (M.D. Ga. May 1, 2019) (finding insurance policy did not

cover bar where shooting took place because the policy excluded coverage for injuries “arising out of the . . . use of firearms or weapons”); *Atain Specialty Ins. Co. v. Sai Darshan Corp.*, 226 F. Supp. 3d 807, 810, 821 (S.D. Tex. 2016) (holding hotel could not recover for expenses arising from shooting on its property because policy contained exclusion for “Assault or Battery . . . at or near the premises owned or occupied by the Insured”).

These gaps, coupled with the growing incidence and severity of gun violence, have driven an increase in spending on new, specialized forms of insurance: active-shooter and deadly weapons policies. These often costly policies specifically cover establishments in the event of an attack. *See* Katie Young & Contessa Brewer, *Rise in Mass Shootings Leads To ‘Rapid Growth’ in Active Shooter Insurance*, CNBC (Jan. 10, 2020), <https://www.cnbc.com/2020/01/10/rise-in-mass-shootings-boosts-active-shooter-insurance.html>. As the risk of violence grows, so too does demand for these policies—along with their rates. *See id.*; Hussain & Cohn, *supra*. And even when businesses *do* secure payouts from their insurers, those claims may cause premiums to rise in the future to reflect the heightened likelihood and cost of covering the fallout of a shooting. *See* Minn. Coal. for Common Sense, *The Economic Cost of Gun Violence in Minnesota* 10 (2016).

* * *

In sum, the costs and risks businesses face if Petitioners’ nationwide right-to-carry regime is imposed are real and significant. Businesses face

heightened costs as varied as increased insurance premiums, litigation costs and fees, employee compensation and benefits, and decreased economic opportunities in their communities. *Amici* ask that this Court consider these costs and the challenges businesses will face across the country from lax concealed carry regulations just as policymakers have long considered them in deciding what concealed carry licensing regimes are right for their own individual communities. This Court should affirm.

II. Expanded Access To Concealed Carry Is Associated With Increased Gun Prevalence And Gun Violence.

The substantial costs and other externalities that businesses face from lax concealed carry laws arise out of the empirically confirmed rise in gun violence that follows these laws. A broad swath of academic research and studies confirms that greater access to concealed carry leads to greater gun violence. And greater gun violence harms businesses, their employees, their customers, and their communities. Academic research further debunks any argument that these serious costs are outweighed by the purported virtues of having more weapons in the community available. To the contrary, it is extremely rare for guns to be used in self-defense, and when they are, they dramatically increase the risk to life, limb, and property. In other words, lax concealed carry laws impose significant costs on society and on businesses in particular by increasing the likelihood of gun violence, and that increase is plainly not outweighed by any added self-defense value as Petitioners claim in this case.

A. Lax Concealed Carry Laws Are Associated With Higher Levels Of Violent Crime.

Recent, compelling social science research demonstrates that states and localities with lax concealed carry laws suffer from increased rates of violent crime. A 2019 study led by Stanford professor John Donohue shows that shall-issue laws (also called “right-to-carry” or “RTC” laws)—which *require* officials to grant a concealed carry permit “unless the applicant is categorically prohibited from concealed handgun possession”³—are associated with higher levels of overall violent crime. See Michael Siegel et al., *Easiness of Legal Access to Concealed Firearm Permits and Homicide Rates in the United States*, 107 Am. J. Pub. Health 1923, 1923 (2017) [hereinafter Siegel, *Easiness of Legal Access*]; see also John J. Donohue et al., *Right-to-Carry Laws and Violent Crime: A Comprehensive Assessment Using Panel Data and a State-Level Synthetic Control Analysis*, 16 J. Empirical Legal Stud. 198 (2019) [hereinafter Donohue, *Right-to-Carry Laws*]. The study concluded that “the adoption of RTC laws **substantially raises** overall violent crime in the ten years after adoption.” Donohue, *Right-to-Carry Laws*, at 240 (emphasis added); see *id.* at 222. Specifically, the adoption of RTC laws increased violent crime rates by 13 to 15 percent compared to what the rates otherwise would have been. *Id.* at 240. The effect became more pronounced over time: While

³ In contrast, “may-issue” laws—like New York’s—allow officials to “use their judgment in making decisions about whether to approve or deny a permit application.” Siegel, *Easiness of Legal Access*, *supra* at 1923.

states had violent crime rates that were about seven percent higher than their controls five years after passage of an RTC law, their violent crime rates were about 14 percent higher ten years after passage. *Id.* at 232. As Professor Donohue explained, “the longer the RTC law is in effect . . . , the greater the cost in terms of increased violent crime.” *Id.* Conversely, the study found “not even the slightest hint in the data that RTC laws reduce violent crime.” *Id.* at 240.⁴

The researchers posited several possible explanations for their results. *See* Donohue, *Right-to-Carry Laws, supra*, at 202-13. Lax concealed carry laws may “lead to an increase in violent crime by increasing the likelihood a generally law-abiding citizen will commit a crime.” *Id.* at 203.⁵ And lax concealed carry laws can increase crime even if permit holders are not the

⁴ The study also examined the general drop in violent crime from 1977 to 2014. That drop was “almost an order of magnitude greater [in non-RTC-adopting states] than in RTC-adopting states (a 42.3 percent drop vs. a 4.3 percent drop).” *Id.* at 200-01.

⁵ Some studies cast doubt on the notion that concealed carry permit holders are uniformly or overwhelmingly law-abiding. A 2002 study by the Violence Policy Center concluded that, from 1996 to 2000, concealed carry permit holders in Texas “were arrested for weapon-related offenses at a rate 81 percent higher than that of the general [adult] population.” KAREN BROCK & MARTY LANGLEY, VIOLENCE POLICY CENTER, LICENSE TO KILL IV: MORE GUNS, MORE CRIME 5 (June 2002); *see also* DANIEL W. WEBSTER ET AL., JOHNS HOPKINS BLOOMBERG SCHOOL OF PUBLIC HEALTH, FIREARMS ON COLLEGE CAMPUSES: RESEARCH EVIDENCE AND POLICY IMPLICATIONS 2 (Oct. 15, 2016) (“[I]n states with low standards for legal gun ownership, legal gun owners account for the majority of persons incarcerated for committing violent crimes with firearms.”).

ones committing the crimes. Permitholders may *induce* crime through “the greater belligerence . . . that can attend gun carrying,” or criminals may “respond to the possibility of armed resistance by increasing their gun carrying and escalating their level of violence.” Donohue, *Right-to-Carry Laws*, *supra* at 202-03, 209-10; *see also* Daniel W. Webster et al., *Firearms on College Campuses: Research Evidence and Policy Implications* 17 (Oct. 15, 2016) (“The ability to carry a gun may embolden some permit holders to incite criminal responses to their provocative behavior . . .”). Lax concealed carry laws may also lead to increased crime by those who acquire the guns of permitholders via loss or theft. *See* Donohue, *Right-to-Carry Laws*, *supra*, at 207.

This increased crime likely causes spillover harms as well. For instance, the added violence could “take up police time or increase the risks the police face, thereby impairing the crime-fighting ability of the police in ways that can increase crime.” *Id.* at 203. The presence of more guns and more gun carriers on the street can complicate police responses to mass shootings, other crimes, and even routine traffic violations. *See id.* at 212. And the increased administrative burdens associated with lax concealed carry laws can divert police resources away from crime prevention. *Id.* at 210.

Other recent studies have also shown that lax concealed carry laws are associated with an increase in homicide rates. A study led by researchers at the Boston University School of Public Health found a “robust association between shall-issue laws and higher rates of firearm homicides” when it compared homicide rates in states with shall-issue laws and states with

may-issue laws. See Siegel, *Easiness of Legal Access*, *supra*, at 1929. Building on this research, Siegel and colleagues again found in 2019 that discretionary may-issue laws are “significantly associated” with lower homicide rates and lower firearm homicide rates than nondiscretionary shall-issue laws. See Michael Siegel & Claire Boine, Rockefeller Inst. of Gov’t, *What Are the Most Effective Policies in Reducing Gun Homicides?* 9-10 (Mar. 29, 2019). The researchers concluded that may-issue laws are one of three “priority pieces of legislation that would have the greatest impact in reducing overall firearm homicide rates.” *Id.* at 4.

Lax concealed carry laws have also been linked to increases in violent crimes other than homicide. A 2014 study, for example, found statistically significant increases not only in rates of murder but also in rates of robbery and assault after the adoption of a right-to-carry law. See Paul R. Zimmerman, *The Deterrence of Crime Through Private Security Efforts: Theory and Evidence*, 37 *Int’l Rev. L. & Econ.* 66, 71 (2014). And research on the interaction between mass shootings and right-to-carry laws also confirms the statistical relationship between right-to-carry laws and greater violence and crime. Webster, *supra*, at 2, 8, 24. Research indicates that the average death toll in high-fatality mass shootings *increases* following the implementation of a right-to-carry law. See *id.* at 8.⁶

⁶ See, e.g., Mark Gius, *Using the Synthetic Control Method to Determine the Effects of Concealed Carry Laws on State-Level Murder Rates*, 57 *INT’L REV. L. & ECON.* 1, 6 (2019) (finding that the adoption of a shall-issue law increased overall homicides by 4.9 percent and firearm homicides by 12.3 percent); MARJORIE B. MCELROY & PEICHUN WANG, *SEEMINGLY INEXTRICABLE DYNAMIC*

B. Lax Concealed Carry Laws Do Not Increase Safety.

The significant costs associated with lax concealed carry laws are not offset by any purported need for self-defense. In fact, research shows that self-defense gun use is extremely rare, and that persons carrying firearms are *more* likely to experience harm than persons without firearms.

In a 2015 study, Dr. David Hemenway, Director of the Harvard Injury Control Research Center, and Dr. Sara Solnick, a professor at the University of Vermont, reviewed 14,000 contact crimes included in the National Crime Victimization Survey for 2007-2011 and found that guns were used by victims for self-defense in less than one percent of cases. *See* David Hemenway & Sara J. Solnick, *The Epidemiology of Self-Defense Gun Use: Evidence from the National Crime Victimization Surveys 2007-2011*, 79 *Preventive Med.* 22, 23 (2015) [hereinafter Hemenway & Solnick]. Another review of total gun homicides in 2010 similarly found that less than three percent were “justifiable.” *See* Violence Pol’y Ctr., *Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use* 1 (May 2020). In other words, it is far more likely that a person will be the victim of gun violence than will use a gun for self-defense. In fact, as one study concluded, every time a gun was legally used to kill or injure for self-defense, guns were also used for 11 attempted or completed suicides, seven homicides or

DIFFERENCES: THE CASE OF CONCEALED GUN PERMIT, VIOLENT CRIME AND STATE PANEL DATA 1, 32 (June 24, 2017) (finding that “total violent crimes” would be reduced by “about one third” from 1980 to 2011 had states not implemented shall-issue laws).

criminal assaults, and four accidental shootings. *See* Arthur L. Kellermann et al., *Injuries and Deaths Due to Firearms in the Home*, 45 J. Trauma 263, 263 (Aug. 1998). These risks are particularly high for women. One report found that in 2014 over 1,600 women were killed by men, while only 25 women used guns to kill men in self-defense. *See* Violence Pol’y Ctr., *When Men Murder Women: An Analysis Of 2014 Homicide Data 2* (Sept. 2016).

And even when guns *are* used in self-defense, their use is strongly associated with an increased likelihood of harm for both the gun owner and innocent bystanders. According to one study, persons using firearms for self-defense are nearly five times more likely to be shot in an assault than persons without firearms. *See* Charles C. Branas et al., *Investigating the Link Between Gun Possession and Gun Assault*, 99 Am. J. Pub. Health 2034, 2037 (2009); *see also* Hemenway & Solnick, *supra*, at 24 (finding victims using a gun are no less likely to be injured after taking protective action than victims using other forms of protective action). Anecdotal evidence confirms these dangers with respect to concealed carry permit holders in particular. Permit holders have accidentally shot numerous innocent bystanders, including children. For example, last year, a concealed permit holder fired at neighbors who ate her Uber Eats delivery. Randy Wimbley & David Komer, *Woman shot at by mother who hit her own toddler in Uber Eats dispute says what happened*, Fox News (Nov. 11, 2020), <https://www.fox2detroit.com/news/woman-shot-at-by-mother-who-hit-her-own-toddler-in-uber-eats-dispute-says-what-happened>. The permit holder missed and instead shot her own 21-month-old baby. *Id.* In another

altercation last year, a concealed carry permit holder and 29-year-old female bystander were both fatally shot after the permit holder and another man got into an argument outside of a house party that escalated into an armed conflict. James David Dickson, *Detroit man faces 3 felony cases alleging murder, gun crimes*, Detroit News (Oct. 20, 2020) <https://www.detroit-news.com/story/news/local/detroit-city/2020/10/20/detroit-man-faces-3-felony-cases-alleging-murder-gun-crimes/3661755001/>.⁷

* * *

In sum, compelling social science research supports the existence of at least a correlative and likely a causal link between lax concealed carry laws and higher levels of violent criminal activity. Meanwhile, research also shows that concealed firearms rarely protect their carriers. This Court should consider this robust body of empirical research in resolving this case, the serious harms a decision in favor of Petitioners will cause, and the particular harms—*discussed*

⁷ See also *Security guard's shots killed co-worker, patient in Munster hospital room shooting, prosecutor says*, CHICAGO TRIBUNE (June 16, 2020) <https://www.chicagotribune.com/suburbs/post-tribune/ct-ptb-munster-community-hospital-shooting-st-0617-20200616-256nfm2vgndyffsr6bu25id4qa-story.html> (reporting that an armed security guard with a concealed carry permit accidentally shot and killed another security guard); William Saletan, *Friendly Firearms: How an Armed Hero Nearly Shot the Wrong Man*, SLATE (Jan. 11, 2011), <https://slate.com/technology/2011/01/joe-zamudio-and-the-gabrielle-giffords-shooting-how-an-armed-hero-nearly-shot-the-wrong-man.html> (providing that a bystander with a concealed gun assaulted and nearly shot a man who grabbed the weapon of a mass shooter, targeting U.S. Congresswoman Gabrielle Giffords).

supra Part I—that this increased violence and crime will inflict on *Amici* and businesses like them.

CONCLUSION

Greater access to guns and the resulting increase in gun violence harms businesses by imposing substantial costs and other externalities on businesses and their stakeholders. This Court should consider these serious costs in resolving this case, particularly in light of the extensive empirical evidence that right-to-carry laws increase violent crime and do not increase safety. A ruling for Petitioners would broadly expand individuals’ ability to carry concealed weapons throughout this country. It would therefore inflict serious harm on *Amici* and businesses like them. For the foregoing reasons, therefore, *Amici Curiae* respectfully request that this Court affirm the judgment below.

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