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11 **UNITED STATES DISTRICT COURT**
12
13 **DISTRICT OF NEVADA**

14 ADRIAN DOMINICAN SISTERS, SISTERS
OF BON SECOURS USA, SISTERS OF ST.
15 FRANCIS OF PHILADELPHIA, and
SISTERS OF THE HOLY NAMES OF JESUS
16 & MARY, U.S.-ONTARIO PROVINCE,
derivatively on behalf of SMITH & WESSON
17 BRANDS, INC.,

18 Plaintiff,

19 v.

20 MARK P. SMITH, KEVIN A. MAXWELL,
SUSAN J. CUPERO, ROBERT L. SCOTT,
21 ANITA D. BRITT, FRED M. DIAZ,
MICHELLE J. LOHMEIER, BARRY M.
22 MONHEIT, and DENIS G. SUGGS,

23 Defendants.

24 -and-

25 SMITH & WESSON BRANDS, INC., a
Nevada Corporation,

26 Nominal Defendant.
27
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Case No.

**VERIFIED STOCKHOLDER
DERIVATIVE COMPLAINT FOR
BREACH OF FIDUCIARY DUTY AND
VIOLATIONS OF SECTION 14(A) OF
THE SECURITIES EXCHANGE ACT OF
1934 AND JURY DEMAND**

1 Plaintiffs Adrian Dominican Sisters, Sisters of Bon Secours USA, Sisters of St. Francis of
2 Philadelphia, and Sisters of the Holy Names of Jesus & Mary, U.S.-Ontario Province (“Plaintiffs”),
3 by and through their attorneys, bring this action derivatively on behalf of Nominal Defendant Smith
4 & Wesson Brands, Inc. (“Smith & Wesson” or the “Company”), against certain members of the
5 Company’s Board of Directors (“Board”) and Smith & Wesson officers to remedy breaches of
6 fiduciary duty, and violations of Section 14(a) of the Securities Exchange Act of 1934, as amended
7 (“Exchange Act”). Plaintiffs make these allegations upon personal knowledge as to the facts of their
8 ownership of Smith & Wesson stock, and upon information and belief as to all other matters, based
9 upon the review of: (a) documents obtained pursuant to Section 16.02 of the Massachusetts General
10 Corporation Law, Mass. Gen. Laws ch. 156D, § 16.02 (“Section 16.02 Documents” or “Section
11 16.02 Production”); (b) public filings made by Smith & Wesson and other related parties and
12 nonparties with the U.S. Securities and Exchange Commission (“SEC”); (c) press releases and other
13 publications disseminated by the Company and other related nonparties; (d) news articles; (e)
14 investor communications to the Board; (f) information obtained from Smith & Wesson’s website;
15 (g) proceedings in related civil lawsuits based on the same or similar underlying misconduct; and
16 (h) other publicly available information concerning Smith & Wesson and the Individual Defendants
17 (defined below).

18 INTRODUCTION

19 1. This stockholder derivative action arises because Defendants—members of Smith &
20 Wesson’s Board and senior management team—allowed the Company to become exposed to
21 significant liability for intentionally violating federal, state, and local laws through its
22 manufacturing, marketing, and sales of AR-15 style rifles and similar semiautomatic firearms (“AR-
23 15 Rifles”).

24 2. More specifically, when the Company’s AR-15 Rifles are used to perpetrate mass
25 shootings, the Board’s unwillingness to exercise any oversight whatsoever in connection with the
26 Company’s illicit manufacturing, marketing, and sales of AR-15 Rifles prevent it from being

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1 afforded protection under the Protection of Lawful Commerce in Arms Act (“PLCAA”), exposing
2 the Company to substantial liability.¹

3 3. This suit seeks to hold Smith & Wesson’s Board members (among other fiduciaries)
4 accountable for their failure to protect the Company’s interests, particularly in consideration of
5 Smith & Wesson’s executives’ failure to act in response to: (i) being recognized as a primary
6 supplier of the weapon of choice for numerous mass murderers; (ii) numerous lawsuits related to
7 the use of AR-15 Rifles to perpetrate mass shootings; (iii) state and local laws banning the sale
8 and/or possession of AR-15 Rifles; (iv) governmental investigations regarding the Company’s
9 manufacturing, marketing, and sales of AR-15 Rifles; and (v) the substantial support of the
10 Company’s stockholders that the Board examine such practices.

11 4. Much like the day of reckoning faced by purveyors of opioids who flooded the
12 market with dangerous and deadly products, the Individual Defendants continue to place their own
13 personal interests, greed, biases, beliefs, and political concerns above the interests of the Company
14 and its stockholders, ignoring the high likelihood that the long-term liabilities and risks associated
15 with the manufacturing, marketing, and sales of AR-15 Rifles will far outweigh the short-term
16 benefits brought about through the same.

17 5. Notwithstanding the stockholders’ significant support for stockholder proposals
18 presented by Plaintiffs and their affiliates that were meant to mitigate the risk of harm facing the
19 Company through its current practices, and the support of influential proxy advisors like ISS and
20 Glass Lewis, the Individual Directors continue to willfully ignore the winds of change and the
21 exponential increase in the number of mass murders the Company has facilitated through its actions.

22 6. Simultaneously, the Individual Defendants made the affirmative decision to place
23 the interests of the Company’s customers above those of its stockholders.

24 7. In light of the recent events discussed in more detail herein, Plaintiffs will establish
25 that the Board’s failure to prevent the Company’s profound and significant exposure to liability

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27 ¹ The PLCAA’s immunity for firearm manufacturers and sellers is subject to “predicate
28 exception” for “[a]ctions where a manufacturer or seller knowingly violated a State or Federal
Statute applicable to the sale or marketing of the product, where violation proximately caused the
harm sued upon[.]” 15 U.S.C. § 7903(5)(A)(iii).

1 related to its manufacture, marketing, and sales of AR-15 Rifles amounts to a breach of fiduciary
2 duty, mismanagement, and/or wrongdoing.

3 8. Furthermore, in violation of Section 14(a) of the Exchange Act, the Director
4 Defendants caused the Company to issue proxy statements containing materially false and/or
5 misleading information, including: (i) the 2024 Proxy’s false statements about the Plaintiffs’, their
6 State Court Action, and the 2024 Proposal; and (ii) falsely touting the Board’s oversight of material
7 risks related to ESG matters in proxy statements filed with the SEC since 2021, despite never
8 considering such risks.

9 **THE PARTIES**

10 **I. PLAINTIFFS**

11 9. Plaintiff Adrian Dominican Sisters (“ADS”) is a community of Catholic women that
12 is principally located in Adrian, Michigan. ADS is, and has been at all relevant times hereto, a Smith
13 & Wesson stockholder.

14 10. Plaintiff Sisters of Bon Secours USA (“SBS USA”) is a community of Catholic
15 women that is principally located in Marriottsville, Maryland. SBS USA is, and has been at all
16 relevant times hereto, a Smith & Wesson stockholder.

17 11. Plaintiff Sisters of St. Francis of Philadelphia (“SSFP”) is a community of Catholic
18 women that is principally located in Aston, Pennsylvania. SSFP is, and has been at all relevant times
19 hereto, a Smith & Wesson stockholder.

20 12. Plaintiff Sisters of the Holy Names of Jesus & Mary, U.S.-Ontario Province (“SHN”) is
21 a community of Catholic women that is principally located in Marylhurst, Oregon. SHN is, and
22 has been at all relevant times hereto, a Smith & Wesson stockholder.

23 13. Plaintiffs will continue to hold Smith & Wesson stock throughout the pendency of
24 this action, and they will fairly and adequately represent the Company’s interests.

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1 **II. NOMINAL DEFENDANT**

2 14. Nominal Defendant Smith & Wesson is a Nevada corporation with its principal
3 executive offices located at 1852 Proffitt Springs Road, Maryville, Tennessee. The Company's
4 shares trade on the Nasdaq Global Select Market under the ticker symbol "SWBI."

5 **III. INDIVIDUAL DEFENDANTS**

6 15. Mark P. Smith ("Smith") has served in various positions at Smith & Wesson from
7 2010 to 2020. Since 2020, Smith has served as the Company's President, CEO, and as a member
8 of the Board.

9 16. Kevin A. Maxwell ("Maxwell") has served as the Company's Senior Vice President,
10 General Counsel, Chief Compliance Officer, and Secretary since 2021.

11 17. Susan J. Cupero ("Cupero") served in various positions at Smith & Wesson from
12 2015 to 2020. Since 2021, Cupero has served as the Company's Vice President of Sales.

13 18. Robert L. Scott ("Scott") is the Chairman of the Company's Board and has been
14 Chairman since August 23, 2020. Scott served in various positions at Smith & Wesson from
15 December 1989 to February 2006, including as Vice President of Sales and Marketing, Vice
16 President of Business Development, President, and as a consultant. Scott joined the Board in
17 December 1999 and at all relevant times has been a member of the Board's Audit Committee, and
18 Nominations and Corporate Governance Committee. Scott also serves as Chairman of the National
19 Shooting Sports Foundation, Governor of the Sporting Arms and Ammunition Institute.

20 19. Anita D. Britt ("Britt") has served as a member of Smith & Wesson's Board since
21 February 2018. At all relevant times, Britt has been a member of the Board's Audit Committee,
22 Compensation Committee, and Environmental, Social and Governance Committee. Britt also serves
23 as a member of the board of directors for other public companies, including Delta Apparel, Inc.
24 (NYSE:DLA), urban-gro, Inc. (NASDAQ:UGRO), and VSE Corporation (NASDAQ:VSEC).

25 20. Fred M. Diaz ("Diaz") has served as a member of Smith & Wesson's Board since
26 May 2021. At all relevant times, Diaz has been a member of the Board's Compensation Committee,
27 and Environmental, Social and Governance Committee. Diaz also serves as a member of the board
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1 of directors for other public companies, including Archer Aviation Inc. (NYSE:ACHR), SiteOne
2 Landscape Supply, Inc. (NYSE:SITE), and Valero Energy Corporation (NYSE:VLO).

3 21. Michelle J. Lohmeier (“Lohmeier”) has served as a member of Smith & Wesson’s
4 Board since July 2023. At all relevant times, Lohmeier has been a member of the Board’s
5 Compensation Committee, and Environmental, Social and Governance Committee. Lohmeier also
6 serves as a member of the board of directors for other public companies, including Kaman
7 Corporation (NYSE:KAMN), and Mistras Group, Inc. (NYSE:MG). Lohmeier is a member of board
8 of directors for Nammo Defense Systems Inc., a U.S. subsidiary of ammunition producer Nordic
9 Ammunition Company.

10 22. Barry M. Monheit (“Monheit”) has served as a member of Smith & Wesson’s Board
11 since February 2004. Monheit served as Chairman of the Company’s Board from October 2004 to
12 August 2020, and at all relevant times has been a member of the Board’s Compensation Committee,
13 and Nominations and Corporate Governance Committee. Monheit also serves as a member of the
14 board of directors for other public companies, including Smith & Wesson’s former parent company,
15 American Outdoor Brands, Inc. (NASDAQ:AOUT). Monheit is Vice Chairman of the board of
16 directors for That’s Entertainment Corp., a company that offers entertainment based on its virtual
17 interactive shooting experience utilizing laser technology-based replica firearms.

18 23. Denis G. Suggs (“Suggs”) has served as a member of Smith & Wesson’s Board since
19 May 2021. At all relevant times, Suggs has been a member of the Board’s Audit Committee, and
20 Nominations and Corporate Governance Committee. Suggs also serves as a member of the board of
21 directors for other public companies, including Patrick Industries Inc. (NASDAQ:PATK).

22 24. Defendants Smith, Scott, Britt, Diaz, Lohmeier, Monheit, and Suggs are, at times,
23 collectively referred to herein as the “Director Defendants.”

24 25. Defendants Smith, Maxwell, and Cupero are, at times, collectively referred to herein
25 as the “Officer Defendants.”

26 26. The Director Defendants and the Officer Defendants are referred to collectively as
27 the “Individual Defendants.”
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1 **JURISDICTION AND VENUE**

2 27. Pursuant to 28 U.S.C. § 1331 and section 27 of the Exchange Act, this Court has
3 jurisdiction over the claims asserted herein for violations of Section 14(a) of the Exchange Act and
4 SEC Rule 14a-9 promulgated thereunder.

5 28. This Court has supplemental jurisdiction over the remaining claims under 28
6 U.S.C. § 1367.

7 29. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Smith &
8 Wesson is incorporated in this District.

9 **PROCEDURAL BACKGROUND**

10 30. On February 16, 2023, Plaintiffs served Smith & Wesson with a demand to inspect
11 corporate books and records under Section 16.02 of the Massachusetts General Corporation Law,
12 Mass. Gen. Laws ch. 156D, § 16.02 (“Section 16.02”), which entitles a “shareholder of a corporation
13 to inspect and copy ... excerpts from minutes reflecting action taken at any meeting of the board of
14 directors ... committee of the board of directors ... minutes of any meeting of the shareholders, and
15 records of action taken by the shareholders or board of directors without a meeting” Section
16 16.02(b).

17 31. The purposes for Plaintiffs’ Section 16.02 demand were to, among other things,
18 investigate and evaluate whether members of Smith & Wesson’s Board breached their fiduciary
19 duties by failing to prevent and/or exercise sufficient oversight in connection with the Company’s
20 exposure to a substantial likelihood of liability in connection with its manufacturing, marketing, and
21 sale of AR-15 Rifles.

22 32. Between February and April 2023, the parties negotiated a non-disclosure agreement
23 and the Company agreed to produce some responsive Board-level documents.

24 33. On May 5, 2023, Smith & Wesson produced 781 pages of documents, including: (i)
25 23 publicly available SEC filings, corporate governance documents, and slip sheets, representing
26 726 pages of the production; (ii) minutes from the Company’s Annual Meetings dated between 2020
27 and 2022, representing 27 pages of the production; (iii) minutes from two Board meetings dated
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1 between 2020 and 2022, representing five pages of the production; (iv) minutes from one meeting
2 of the Board’s Environmental, Social and Governance Committee (“ESG Committee”) dated March
3 2023, representing two pages of the production; (v) two Digimind media monitoring reports dated
4 2018 and 2022 (all but two pages redacted), representing 31 pages of the production; and (vi) one
5 presentation to the Board regarding a 2020 stockholder proposal, representing 10 pages of the
6 production.

7 34. After engaging in several rounds of correspondence and meet and confers, on May
8 30, 2023, the Company initially agreed to supplement its production. However, on June 9, 2023,
9 Smith & Wesson reneged and “decline[d] to supplement its prior production of documents,”
10 asserting in its correspondence that “[t]he provided documents would sufficiently demonstrate to
11 any party acting in good faith not only that the SWBI Board of Directors has gone above and beyond
12 in investigating and monitoring the very risks raised by [Plaintiffs]”

13 35. Based on the Company’s representation about the documents produced in response
14 to Plaintiff’s Section 16.02 demand, it is reasonable to infer that exculpatory information not
15 reflected in the production of Board-level books and records does not exist.²

16 36. On December 5, 2023, the Plaintiffs filed a derivative lawsuit in the Eighth Judicial
17 District Court (“District Court”) for claims of breach of fiduciary duty (the “State Court Action”)
18 against the Individual Defendants for knowingly allowing the Company to become exposed to
19 significant liability for intentionally violating federal, state, and local laws through its
20 manufacturing, marketing, and sales of AR-15 style rifles and similar semiautomatic firearms, and
21 their unwillingness to exercise any oversight whatsoever in connection with the Company’s illicit
22 manufacturing, marketing, and sales of AR-15 Rifles to prevent it from being afforded protection
23 under the Protection of Lawful Commerce in Arms Act (“PLCAA”), exposing the Company to
24 substantial liability when their rifles are used in mass shootings.³

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27 ² See *Teamsters Local 443 Health Serv’s & Ins. Plan v. Chou*, C.A. No. 2019-0816-SG, 2020 WL
5028065, at *24 n.314 (Del. Ch. Aug. 24, 2020).

28 ³ See Complaint, *Adrian Dominican Sisters v. Smith*, Case No. A-23-882774-B (Nev. Dist. Ct.
Dec. 5, 2023).

1 37. On March 19, 2024, the District Court granted the Individual Defendants’ Motion to
2 Require Security Pursuant to NRS 41.520 (“Bond Motion”), and it required the Plaintiffs to post a
3 \$500,000 bond by April 23, 2024, or face dismissal of the State Court Action without prejudice.

4 38. In granting the Bond Motion, the District Court concluded that there was “no
5 reasonable possibility that the prosecution of the cause of action alleged in the complaint against the
6 moving party [would] benefit the corporation or its security holders,” without conducting any
7 analysis of the Plaintiffs’ claims.⁴

8 39. In drafting the District Court’s Order granting the Bond Motion, the Individual
9 Defendants included findings of fact and conclusions of law about the merits of the State Court
10 Action that violated controlling law, under which “[a] determination by the court that security either
11 must or must not be furnished . . . shall not be deemed a determination of any one or more issues in
12 the action or of the merits thereof.”⁵

13 40. Nevertheless, on March 19, 2024, the District Court entered the Order granting the
14 Bond Motion as prepared by the Individual Defendants, which contained improper and unsupported
15 conclusions about the merits of the State Court Action.⁶

16 41. After Plaintiffs declined to post the draconian security bond, the District Court
17 dismissed the State Court Action without prejudice on June 11, 2024.

18 42. Once the State Court Action was dismissed without prejudice, on July 7, 2024, the
19 Individual Defendants filed a Motion for Attorneys’ Fees and Costs (“Fee Motion”).

20 43. On July 10, 2024, the Plaintiffs filed a notice of appeal.

21 44. On September 17, 2024, in ruling against the Individual Defendants’ Fee Motion, the
22 District Court noted at the hearing that it did “not find the claims were brought or maintained without

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26 ⁴ See Transcript of Hearing on Bond Motion, *Adrian Dominican Sisters v. Smith*, Case No. A-23-
882774-B (Nev. Dist. Ct. Feb. 20, 2024).

27 ⁵ NRS 41.520(4)(b).

28 ⁶ See Order Granting Bond Motion, *Adrian Dominican Sisters v. Smith*, Case No. A-23-882774-
B (Nev. Dist. Ct. Mar. 19, 2024).

1 reasonable grounds or to harass,” and “[t]he claims did involve novel and arguable issues.”⁷ The
2 District Court reaffirmed its conclusions in its Order denying the Fee Motion.⁸

3 45. Because the District Court contradicted its own Order Granting Bond Motion by
4 acknowledging the matter was brought with “reasonable grounds,” and thus did, in fact, have a
5 “reasonable possibility” of benefitting the corporation or its security holders, Plaintiffs concluded
6 their appeal was no longer necessary.

7 46. On November 19, 2024, the parties agreed to a stipulation to dismiss the appeal,
8 which the Nevada Supreme Court entered on November 21, 2024.

9 47. Plaintiffs elected to refile in this Court based on their assessment of further pursuing
10 the case in Nevada State Court in addition to the revelation of new facts giving rise to a federal
11 claim; namely, a Sec. 14A claim based on the Company’s issuance of materially false and
12 misleading disclosures in the Company’s annual proxy about the grounds for dismissal of the state
13 court action for the purpose of undercutting and defeating a shareholder proposal supported by
14 Plaintiffs and others.

15 **SUBSTANTIVE ALLEGATIONS**

16 **I. THE HISTORY OF SMITH & WESSON AND THE AR-15 RIFLE**

17 48. For the first 153 years of Smith & Wesson’s existence, the Company held itself out
18 as a successful beacon of responsible gun ownership and did not manufacture, market, or sell
19 military-grade, mass-killing assault weapons.⁹

20 49. However, the Company’s prudence was abandoned in January 2006, when Smith &
21 Wesson began manufacturing, marketing, and selling AR-15 Rifles. In 1977, the patent on the AR-
22 15 Rifle lapsed, and many gun manufacturers began producing civilian variants.

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26 ⁷ See Transcript of Hearing on Fee Motion at 5:24-6:2, *Adrian Dominican Sisters v. Smith*, Case
27 No. A-23-882774-B (Nev. Dist. Ct. Sept. 17, 2024).

28 ⁸ See Order Denying Fee Motion at 3, *Adrian Dominican Sisters v. Smith*, Case No. A-23-882774-
B (Nev. Dist. Ct. Oct. 10, 2024).

⁹ Smith & Wesson, *Our Story*, available at <https://www.smith-wesson.com/ourstory>.

1 50. Less than 20 years ago, most people in the firearms industry regarded AR-15 Rifles
2 as “distasteful and dangerous, they chose not to promote [them] at events.”¹⁰

3 51. In fact, before September 13, 2004, when the Federal Assault Weapons Ban expired,
4 the manufacture, transfer, and possession of AR-15 Rifles was prohibited.¹¹

5 52. When the ban on military-style semiautomatic assault rifles expired in 2004, gun
6 manufacturers immediately began selling AR-15 Rifles to the civilian gun market. However, Smith
7 & Wesson saw the risk of liability that it would face by manufacturing, marketing, and selling such
8 devices and chose not to enter the new market without legal protections.

9 53. In an effort to insulate itself from the inherent risk of liability that would accompany
10 the inclusion of AR-15 Rifles into its product line, Smith & Wesson partnered with the National
11 Rifle Association (“NRA”), spending millions of dollars to lobby Congress for a new federal law
12 that they hoped would shield gun makers from lawsuits filed against them when their guns, including
13 AR-15 Rifles, were used to kill or injure people.

14 54. Smith & Wesson’s successful lobbying efforts resulted in the passage of the PLCAA,
15 which was signed into law on October 25, 2005. On the Company’s subsequent earnings call, then
16 Smith & Wesson President and CEO Michael Golden told investors he “had the honor of attending
17 the signing of the [PLCAA]” and that it marked “a great day for our industry and for me personally.”

18 55. Within a few months of the PLCAA being signed into law, Smith & Wesson entered
19 the civilian assault weapons market and began selling AR-15 Rifles (*i.e.*, the M&P 15).

20 56. Since then, Smith & Wesson has enjoyed with abandon the record-breaking profits
21 from its sale of AR-15 Rifles, seemingly unfazed by the exponential rise in gun deaths and mass
22 shootings carried out with its product in the United States.

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26 ¹⁰ Ryan Busse, *The Rifle That Ruined America*, THE ATLANTIC (June 15, 2022),
27 <https://www.theatlantic.com/ideas/archive/2022/06/ar-15-rifle-mass-shootings-gun-control/661275/>.

28 ¹¹ 18 U.S.C. §§ 922 *et seq.*

1 57. By the end of 2012, eight (8) years after the Federal Assault Weapons Ban expired,
2 the number of mass shootings per year had more than doubled.¹² In 2016, the NRA dubbed the AR-
3 15 Rifle, “America’s Rifle.”

4 58. By 2020, Smith & Wesson became the second largest producer of AR-15 Rifles in
5 the United States. Between 2012 and 2021, Smith & Wesson generated more than \$695 million in
6 revenue from its AR-15 Rifle sales.

7 59. Disturbingly, Smith & Wesson appears to welcome that its revenues increase
8 following mass shootings. In its 2019 10-K filing, Smith & Wesson acknowledged that speculation
9 about the passage of gun violence prevention legislation—speculation which often increases in the
10 wake of a mass shooting—can “often ... result in increased near-term consumer demand” for Smith
11 & Wesson products.

12 60. At bottom, Smith & Wesson covets short-term profit over long-term risk. Having
13 abandoned its long history of risk-averse stewardship, the Company is now intent on marketing and
14 selling its AR-15 Rifles in whichever manner results in the most sales –even if its marketing is
15 illegal, attracts a dangerous category of consumers, facilitates an unrelenting and growing stream of
16 mass killings, and causes the Company to face an ever-increasing and substantial likelihood of
17 liability that threatens its long-term existence.

18 **II. SMITH & WESSON BEGINS TO MANUFACTURE AR-15 RIFLES AND IGNORES**
19 **THE GLARING RED FLAGS OF MASS SHOOTINGS AND LEGAL**
20 **CHALLENGES**

21 61. Developed by ArmaLite in the 1950s, the original AR-15 Rifle evolved into the
22 military use M-16 with automatic fire capability.¹³

23 62. Such rifles fire bullets at three times the velocity of ordinary handguns, and bullets
24 fired from an AR-15 Rifle hit their targets with such force that they rip open cavities inside the

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26 ¹² Brad Plumer, *Everything you need to know about the assault weapons ban, in one post*,
WASHINGTON POST (Dec. 17, 2012),
27 [https://www.washingtonpost.com/news/wonk/wp/2012/12/17/everything-you-need-to-know-
about-banning-assault-weapons-in-one-post/](https://www.washingtonpost.com/news/wonk/wp/2012/12/17/everything-you-need-to-know-about-banning-assault-weapons-in-one-post/).

28 ¹³ *A Brief History of the AR-15*, NATIONAL PUBLIC RADIO (Feb.28, 2018), available at
www.npr.org/2018/02/28/588861820/a-brief-history-of-the-ar-15.

1 human body and then become unstable as they travel around destroying far more organs and tissue
2 than ordinary handgun rounds.¹⁴

3 63. Smith & Wesson began manufacturing, marketing, and selling AR-15 Rifles in
4 January of 2006.¹⁵

5 64. AR-15-style rifles have been the weapon of choice for the killers responsible for the
6 deadliest mass shootings in American history, including the recent mass murders in: (i) Buffalo,
7 New York; (ii) Uvalde, Texas; (iii) Highland Park, Illinois; (iv) Colorado Springs, Colorado; (v)
8 Nashville, Tennessee; (vi) Louisville, Kentucky; (vii) Allen, Texas; and (viii) Lewiston, Maine.¹⁶

9 65. Since 2012, Smith & Wesson AR-15 Rifles have been used by numerous perpetrators
10 of highly publicized mass shootings, including:

- 11 (i) the 40-year-old man who took eighteen (18) lives and left thirteen (13)
12 injured in a bowling alley and bar in Lewiston, Maine in October 2023;¹⁷
- 13 (ii) the 21-year-old man who took seven (7) lives and left forty-six (46) injured
14 in an attack at a Fourth of July parade in Highland Park, Illinois in July
15 2022;¹⁸
- 16 (iii) the 22-year-old man who took one (1) life and left three (3) injured at the
17 Chabad of Poway synagogue in Poway, California in April 2019;¹⁹

17 ¹⁴ Tim Dickinson, *All-American Killer: How the AR-15 Became Mass Shooters' Weapon of*
18 *Choice*, ROLLING STONE (Feb. 22, 2018), available at
[https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-](https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/)
[mass-shooters-weapon-of-choice-107819/](https://www.rollingstone.com/politics/politics-features/all-american-killer-how-the-ar-15-became-mass-shooters-weapon-of-choice-107819/).

19 ¹⁵ Press Release, *Smith & Wesson Enters Long-Gun Market with M&P15 Rifles* (Jan. 18, 2006),
20 [https://ir.smith-wesson.com/news-releases/news-release-details/smith-wesson-enters-long-gun-](https://ir.smith-wesson.com/news-releases/news-release-details/smith-wesson-enters-long-gun-market-mp15-rifles?ID=805601&c=90977&p=irol-newsArticle)
[market-mp15-rifles?ID=805601&c=90977&p=irol-newsArticle](https://ir.smith-wesson.com/news-releases/news-release-details/smith-wesson-enters-long-gun-market-mp15-rifles?ID=805601&c=90977&p=irol-newsArticle).

21 ¹⁶ Follman, *et al.*, *US Mass Shootings, 1982–2023: Data From Mother Jones' Investigation*,
MOTHER JONES (May 7, 2023), available at [https://www.motherjones.com/politics/2012/12/mass-](https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/)
[shootings-mother-jones-full-data/](https://www.motherjones.com/politics/2012/12/mass-shootings-mother-jones-full-data/).

22 ¹⁷ Russell, *et al.*, *Here's what we know about the shootings*, NY TIMES (Oct. 26, 2023),
23 [https://www.nytimes.com/live/2023/10/25/us/lewiston-maine-shooting/lewiston-maine-](https://www.nytimes.com/live/2023/10/25/us/lewiston-maine-shooting/lewiston-maine-shooting?smid=url-share)
[shooting?smid=url-share](https://www.nytimes.com/live/2023/10/25/us/lewiston-maine-shooting/lewiston-maine-shooting?smid=url-share); Patty Wight, *State police ID three guns found in Lewiston mass shooting*
24 *suspect's car and near his body*, MAINE PUBLIC (Oct. 30, 2023), available at
[https://www.mainepublic.org/maine/2023-10-30/state-police-id-three-guns-found-in-lewiston-](https://www.mainepublic.org/maine/2023-10-30/state-police-id-three-guns-found-in-lewiston-mass-shooting-suspects-car-and-near-his-body)
[mass-shooting-suspects-car-and-near-his-body](https://www.mainepublic.org/maine/2023-10-30/state-police-id-three-guns-found-in-lewiston-mass-shooting-suspects-car-and-near-his-body).

25 ¹⁸ Frank Main, *Illinois State Police Director Defends Decision to Give Suspected Highland Park*
26 *Killer a Gun Permit in 2020*, CHICAGO SUN TIMES (July 6, 2022),
[https://chicago.suntimes.com/2022/7/6/23197100/highland-park-mass-shooting-gun-mith-wesson-](https://chicago.suntimes.com/2022/7/6/23197100/highland-park-mass-shooting-gun-mith-wesson-mp15-semiautomatic-rifle-fourth-july-parade-robert-crimo)
[mp15-semiautomatic-rifle-fourth-july-parade-robert-crimo](https://chicago.suntimes.com/2022/7/6/23197100/highland-park-mass-shooting-gun-mith-wesson-mp15-semiautomatic-rifle-fourth-july-parade-robert-crimo).

27 ¹⁹ Max Hauptman, *Synagogue shooting victims can sue gunmaker Smith & Wesson, California*
28 *judge rules*, WASHINGTON POST (July 11, 2021), available at
<https://www.washingtonpost.com/nation/2021/07/11/poway-synagogue-shooting-lawsuit/>.

- (iv) the 19-year-old man who took seventeen (17) lives and left seventeen (17) injured at Marjory Stoneman Douglas High School in Parkland, Florida in February 2018;²⁰
- (v) the 28-year-old man who took fourteen (14) lives and left twenty-one (21) injured at a community center in San Bernadino, California in December 2015;²¹ and
- (vi) the 24-year-old man who took twelve (12) lives and left seventy (70) injured at a movie theater in Aurora, Colorado in July 2012.²²

66. In fact, the perpetrator in all five of the above referenced mass shootings used the same Smith & Wesson AR-15 Rifle—the M&P15. The reason for this commonality is by design: AR-15 Rifles were created to inflict maximum casualties in the shortest amount of time and can be easily modified for automatic fire.²³

67. Not surprisingly, as a consequence of intense marketing efforts by Smith & Wesson and other manufacturers, coupled with ease of access, AR-15 Rifles accounted for an alarming 85% of mass shooting deaths from 1981 to 2017.²⁴

68. For example, since 2017, AR-15 Rifles that were manufactured and marketed by companies other than Smith & Wesson have also been used by numerous perpetrators of highly publicized mass shootings, including:

- (i) the 33-year-old man who took eight (8) lives and left seven (7) injured outside a shopping mall in Allen, Texas in May 2023;²⁵

²⁰ Audra D. S. Burch, *Death Toll Is at 17 and Could Rise in Florida School Shooting*, NY TIMES (Feb. 14, 2018), <https://www.nytimes.com/2018/02/14/us/parkland-school-shooting.html>.

²¹ Sari Horwitz, *Guns Used in San Bernardino Shooting Were Purchased Legally from Dealers*, WASHINGTON POST (Dec. 3, 2015), https://www.washingtonpost.com/world/national-security/suspects-in-san-bernadino-shooting-had-a-small-arsenal/2015/12/03/9b5d7b52-99db-11e5-94f0-9eeaff906ef3_story.html.

²² James Dao, *Aurora Gunman's Arsenal: Shotgun, Semiautomatic Rifle and, at the End, a Pistol*, NY TIMES (July 23, 2012), <https://www.nytimes.com/2012/07/24/us/aurora-gunmans-lethal-arsenal.html>.

²³ Committee on Oversight and Reform, *Hearing on The Urgent Need to Address the Gun Violence Epidemic* (June 8, 2022), <https://oversight.house.gov/legislation/hearings/the-urgent-need-to-address-the-gun-violence-epidemic>; Everytown, *Assault Weapons and High-Capacity Magazines* (April 2020), https://everytownresearch.org/wp-content/uploads/sites/4/2020/07/EFGV02_Assault-Weapons-and-High-Capacity-Magazines_Rd2_6-1.pdf.

²⁴ DiMaggio, *et al.*, *Changes in US mass shooting deaths associated with the 1994-2004 federal assault weapons ban: Analysis of open-source data*, J. TRAUMA ACUTE CARE (Jan. 2019).

²⁵ Feuer, *et al.*, *After Texas Mall Shooting, Searching for Motive and Grieving for Children*, NY TIMES (May 8, 2023), <https://www.nytimes.com/2023/05/08/us/texas-mall-shooting-mauricio-garcia.html>.

- 1 (ii) the 25 year-old man who took five (5) lives and left eight (8) injured inside
Old National Bank in Louisville, Kentucky in April 2023;²⁶
- 2 (iii) the 28-year-old who took six (6) lives and left six (6) injured at the Covenant
3 School in Nashville, Tennessee in March 2023;²⁷
- 4 (iv) the 22-year-old man who took five (5) lives and left two (2) injured in a
nightclub in Colorado Springs, Colorado in November 2022;²⁸
- 5 (v) the 20-year-old man who took three (3) lives and left two (2) injured at a
6 shopping mall in Greenwood, Indiana in July 2022;²⁹
- 7 (vi) the 45-year-old man who took four (4) lives and left several injured at a
8 medical center in Tulsa, Oklahoma in June 2022;³⁰
- 9 (vii) the 18-year-old man who took twenty-one (21) lives and left seventeen (17)
10 injured at Robb Elementary School in Uvalde, Texas in May 2022;³¹
- 11 (viii) the 18-year-old man who took ten (10) lives and left three (3) injured at a
12 grocery store in Buffalo, New York in May 2022;³²
- 13 (ix) the 19-year-old man who took eight (8) lives and left seven (7) injured at a
14 FedEx warehouse in Indianapolis, Indiana in April 2021;³³
- (x) the 21-year-old man who took ten (10) lives and left one (1) injured at a
grocery store in Boulder, Colorado in March 2021;³⁴

15 ²⁶ Dylan Lovan, *Louisville bank employee livestreamed attack that killed 5*, ASSOCIATED PRESS
16 (April 10, 2023), [https://apnews.com/article/downtown-louisville-shooting-](https://apnews.com/article/downtown-louisville-shooting-dc7b45a9c5d2b384a16d653864f8b735)
[dc7b45a9c5d2b384a16d653864f8b735](https://apnews.com/article/downtown-louisville-shooting-dc7b45a9c5d2b384a16d653864f8b735).

17 ²⁷ Rachel Wegner, *'Truly horrific': Nashville mourns after mass shooting at elementary school*,
18 THE TENNESSEAN (Mar. 27, 2023),
[https://www.tennessean.com/story/news/crime/2023/03/27/nashville-mourns-mass-shooting-](https://www.tennessean.com/story/news/crime/2023/03/27/nashville-mourns-mass-shooting-covenant-school/70052585007/)
[covenant-school/70052585007/](https://www.tennessean.com/story/news/crime/2023/03/27/nashville-mourns-mass-shooting-covenant-school/70052585007/).

19 ²⁸ Lance Benzel, *5 killed, 17 wounded in shooting at LGBTQ nightclub in Colorado Springs*, THE
20 COLORADO SUN (Nov. 20, 2022), [https://coloradosun.com/2022/11/20/club-q-shootins-colorado-](https://coloradosun.com/2022/11/20/club-q-shootins-colorado-springs/)
[springs/](https://coloradosun.com/2022/11/20/club-q-shootins-colorado-springs/).

21 ²⁹ *Chief: 3 dead in Indiana mall shooting; witness kills gunman*, ASSOCIATED PRESS (July 17,
2022), <https://apnews.com/article/indiana-mall-shooting-345348912b288dce656083b2422c2fde>.

22 ³⁰ Amanda Watts, *Gunman who killed 4 at Oklahoma medical building had been a patient of a
victim, police chief says*, CNN (June 2, 2022), [https://www.cnn.com/2022/06/02/us/tulsa-hospital-](https://www.cnn.com/2022/06/02/us/tulsa-hospital-shooting-thursday/index.html)
[shooting-thursday/index.html](https://www.cnn.com/2022/06/02/us/tulsa-hospital-shooting-thursday/index.html).

23 ³¹ Emily Foxhall, *Uvalde school shooting updates: Gunman shared violent plan shortly before
reaching school*, HOUSTON CHRONICLE (May 24, 2022),
24 [https://www.houstonchronicle.com/news/houston-texas/texas/article/Uvalde-school-shooting-](https://www.houstonchronicle.com/news/houston-texas/texas/article/Uvalde-school-shooting-Texas-17196069.php)
[Texas-17196069.php](https://www.houstonchronicle.com/news/houston-texas/texas/article/Uvalde-school-shooting-Texas-17196069.php).

25 ³² Ashley Southall, *Before the Massacre, Erratic Behavior and a Chilling Threat*, NY TIMES (May
15, 2022), <https://www.nytimes.com/2022/05/15/nyregion/gunman-buffalo-shooting-suspect.html>.

26 ³³ Tony Cook, *FedEx shooting: Gunman parked car and began 'randomly' firing, police say*,
27 INDIANAPOLIS STAR (Apr. 16, 2021),
[https://www.indystar.com/story/news/crime/2021/04/16/indianapolis-fedex-shooting-gunman-](https://www.indystar.com/story/news/crime/2021/04/16/indianapolis-fedex-shooting-gunman-parked-car-and-began-randomly-firing-police-say/7251130002/)
[parked-car-and-began-randomly-firing-police-say/7251130002/](https://www.indystar.com/story/news/crime/2021/04/16/indianapolis-fedex-shooting-gunman-parked-car-and-began-randomly-firing-police-say/7251130002/).

28 ³⁴ *Suspect Charged With 10 Counts of Murder in Boulder, Colo., Shooting*, NY TIMES (Mar. 23,
2021), <https://www.nytimes.com/live/2021/03/23/us/boulder-colorado-shooting>.

- (xi) the 36-year-old man who took seven (7) lives and left twenty-five (25) injured in Odessa and Midland, Texas in August 2019;³⁵
- (xii) the 24-year-old man who took nine (9) lives and left twenty-seven (27) injured in the entertainment district of Dayton, Ohio in August 2019;³⁶
- (xiii) the 21-year-old man who took twenty-two (22) lives and left twenty-six (26) injured at a Walmart and shopping center in El Paso, Texas in August 2019;³⁷
- (xiv) the 19-year-old man who took three (3) lives and left twelve (12) injured at a festival in Gilroy, California in July 2019;³⁸
- (xv) the 46-year-old man who took eleven (11) lives and left six (6) injured at a synagogue in Pittsburgh, Pennsylvania in October 2018;³⁹
- (xvi) the 29-year-old man who took four (4) lives and left four (4) injured at a Waffle House in Antioch, Tennessee in April 2018;⁴⁰
- (xvii) the 44-year-old man who took five (5) lives and left ten (10) injured in Rancho Tehama, California in November 2017;⁴¹
- (xviii) the 26-year-old man who took twenty-six (26) lives and left twenty-two (22) injured at the First Baptist Church in Southerland Springs, Texas in November 2017;⁴²

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³⁵ Wesley Lowery, *5 killed, 21 injured in a mass shooting in Odessa, Tex.*, WASHINGTON POST (Aug. 31, 2019), https://www.washingtonpost.com/politics/5-killed-21-injured-after-suspect-hijacked-a-mail-truck-in-odessa-texas/2019/08/31/f659da2c-cc3c-11e9-be05-f76ac4ec618c_story.html.

³⁶ Timothy Williams, *Gunman Kills 9 in Dayton Entertainment District*, NY TIMES (Aug. 4, 2019), <https://www.nytimes.com/2019/08/04/us/dayton-ohio-shooting.html>.

³⁷ Robert Moore, *Officials call El Paso shooting a domestic terrorism case, weigh hate crime charges*, WASHINGTON POST (Aug. 4, 2019), <https://www.washingtonpost.com/nation/2019/08/04/investigators-search-answers-after-gunman-kills-el-paso/>.

³⁸ David Curran, *19-year-old suspect IDd in Gilroy Garlic Festival shooting*, SFGATE (July 29, 2019), <https://www.sfgate.com/news/article/Report-Suspect-ID-in-Gilroy-Garlic-Festival-14192736.php>.

³⁹ Campbell Robertson, *11 Killed in Synagogue Massacre; Suspect Charged With 29 Counts*, NY TIMES (Oct. 27, 2018), <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html>.

⁴⁰ Katie Zezima, *Waffle House shooting suspect Travis Reinking arrested, refusing to answer questions, police say*, WASHINGTON POST (Apr. 23, 2018), <https://www.washingtonpost.com/news/post-nation/wp/2018/04/23/waffle-house-shooting-travis-reinking-manhunt-continues-nashville-police-say/>.

⁴¹ Richard Gonzales, *Police Find Body Of Tehama County Gunman's Wife, Making His Death Toll 5*, NPR (Nov. 15, 2017), <https://www.npr.org/sections/thetwo-way/2017/11/15/564335359/in-harm-s-way-school-staff-saved-students-during-tehama-county-shooting>.

⁴² David Montgomery, *et al.*, *Gunman Kills at Least 26 in Attack on Rural Texas Church*, NY TIMES (Nov. 5, 2017), available at <https://www.nytimes.com/2017/11/05/us/church-shooting-texas.html>.

1 (xix) the 20-year-old man who took one (1) life and left three (3) injured, including
2 former President Donald J. Trump, near Butler, Pennsylvania in July 2024.⁴³

3 69. Notably, the perpetrators involved in the five of the six, highly-publicized mass
4 shootings involving Smith & Wesson's AR-15 Rifles that are set forth above, were males between
5 the ages of 19 and 28.

6 70. This staggering statistic, which was known or should have been known to the
7 Company's executives and Board members, is no coincidence. Indeed, it was Smith & Wesson's
8 targeted marketing practices that ensured that its AR-15 Rifles would be purchased and used by
9 emotionally troubled young men through advertisements designed to take advantage of young men's
10 impulsive behavior and lack of self-control, by: (i) falsely glorifying the implied endorsement by
11 the military and law enforcement; and (ii) cunningly presenting the use of AR-15 Rifles as a real-
12 life version of the adrenaline-filled experiences they have had in first-person shooter games.

13 71. Thus, the Board has been aware, since at least 2000, that Smith & Wesson's
14 marketing practices played a significant role in contributing to many of the most heinous gun crimes
15 in United States history.

16 72. Indeed, when the Company negotiated a settlement agreement with the federal
17 government in 2000 (the "2000 Settlement Agreement") it agreed to, *inter alia*, "[n]ot market any
18 firearm in a way that would make the firearm particularly appealing to juveniles or criminals" due
19 to the foreseeable risk of such advertising fueling unlawful acts of violence by such actors.

20 73. Nevertheless, the Company's executives and Board members have since chosen to
21 flagrantly ignore the safe marketing practices it committed to in the 2000 Settlement Agreement,
22 and instead focus on the continued targeting of young consumers, eschewing any effort to mitigate
23 the potential harm to the Company caused by such practices.⁴⁴

24 ⁴³ Terry Gross, *Why the weapon of choice matters in the Trump assassination attempt*, NPR (July
25 15, 2024), available at <https://www.npr.org/2024/07/15/g-s1-10410/why-the-weapon-of-choice-matters-in-the-trump-assassination-attempt>.

26 ⁴⁴ See *Goldstein v. Earnest*, No. 37-2020-00016638-CU-PO-CTL, Dkt. No. 289 at 8 (Cal. Supr.
27 Ct. San Diego, July 2, 2021) (stating in order denying motion to dismiss that "Smith & Wesson
28 entered into a settlement with the federal government and several cities, and vowed to reform its
business practices to prevent criminal misuse of its guns, including agreeing to not sell a weapon
designed in a manner so that with a few additional parts and/or minimal modifications an owner can

1 **A. SMITH & WESSON'S USE OF THE FIRST-PERSON SHOOTER**
2 **AESTHETIC MARKETING**

3 74. When Smith & Wesson first began selling AR-15 Rifles in 2006, then-President and
4 Chief Executive Officer Michael Golden acknowledged that the company was marketing weapons
5 as “tactical,” stating: “We also believe that our M&P rifle series fills a tremendous gap in the
6 marketplace by delivering high-quality, feature-rich tactical rifles that will be readily available in
7 commercial channels.” The Company designed advertisements for its products to mimic the
8 aesthetic of being the shooter in a video game (“first-person shooter aesthetic”).

9 75. First-person shooter aesthetic video games are disproportionately popular among
10 young men, including many of those involved in the mass killings described above. In fact, the first-
11 person shooter aesthetic is used in many popular games, like Call of Duty, which is popular among
12 teens and young adults, including the Highland Park Shooter. Call of Duty is played by more than
13 400 million people and is played by at least 6.5 million people on a daily basis. In Call of Duty,
14 players step into the shoes of members of the military or law enforcement and seek to complete
15 virtual combat missions:



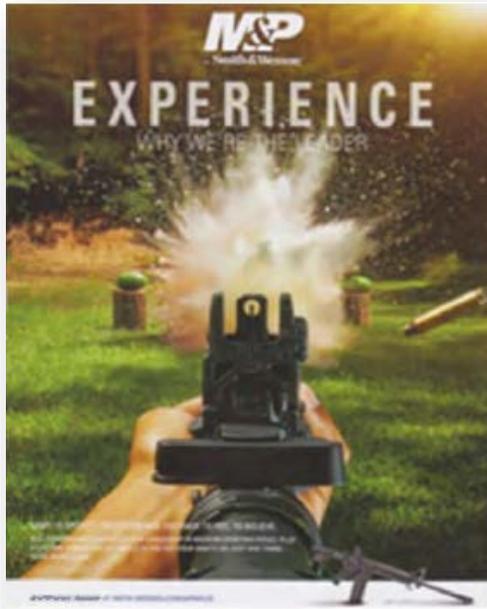
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26 convert the firearms into an illegal fully automatic weapon. Twenty years later, Smith & Wesson
27 has continued selling firearms that it knew could be easily modified to turn into fully automatic
28 assault weapons - even when its modified guns have been used in other mass shootings. It also
fraudulently and deceptively marketed its Rifle with known intent to put them in the hands of
persons in a demographic particularly likely to cause extreme harm--and indeed, harm that is the
epitome of cruel and unjust hardship in conscious disregard of the rights and safety of others.”

1 76. The Company’s advertising mimics this first-person shooter aesthetic, including in,
2 but not limited to, the following examples:

- 3 (i) Smith & Wesson published the following advertisement for its AR-
4 15 Rifles on its corporate channel on the popular social media site
5 YouTube:



- 12
13 (ii) Smith & Wesson published the following advertisement for its AR-
14 15 Rifle:



- 24
25 (iii) Smith & Wesson published an advertisement that encouraged
26 people to “Experience real-life first-person shooting with the Smith
27 & Wesson M&P rifle” and displayed the following scene showing a
28 shooter loading an AR-15 Rifle from the first-person shooter

1 perspective, with what appears to be a high-capacity magazine, as
2 the narrator invited viewers to “Experience more adrenaline”:⁴⁵



10 77. Smith & Wesson ads mimicking first-person shooter games are aimed at appealing
11 to young, and predominantly male consumers of such games, who could (and have) become
12 motivated and desensitized by the same, and then drawn to reenacting their deadly video game
13 experience in real life.

14 78. The advertisements gamifying the use of firearms in real life, glorify the lone gunman
15 and the militaristic design of the Company’s AR-15 Rifles, and indicate that its AR-15 Rifles are
16 well-suited for civilians to carry out offensive military-style combat missions against their perceived
17 enemies.

18 79. Smith & Wesson aggressively published its advertisements and established a
19 marketing presence on social media platforms disproportionately visited by younger consumers,
20 including, but not limited to, YouTube, Instagram, and Facebook (@smithwessoninc,
21 @smithandwessongear, and facebook.com/SmithandWessonInc).

22 80. Smith & Wesson also advertises its AR-15 Rifles using images of children handling
23 its firearms, distributing those images over social media, which means the Company is specifically

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28 ⁴⁵ Smith & Wesson, *Get the Experience*, ISPOT.TV (Feb. 26, 2015), available at <https://www.ispot.tv/ad/7a72/smith-and-wesson-m-and-p-rifle-get-the-experience>.

1 targeting youth despite the fact that many states impose age restrictions preventing youth from
2 purchasing and/or lawfully possessing its AR-15 Rifles.⁴⁶

3 81. Smith & Wesson also markets its AR-15 Rifles nationwide, distributing images and
4 videos over social media to an audience that includes individuals in every state—this practice
5 continues despite the fact that many states have enacted laws that generally ban the sale,
6 manufacture, and transfer of AR-15 Rifles.⁴⁷

7 82. Thus, by marketing its AR-15 Rifles to individuals who are prohibited from
8 possessing AR-15 Rifles, and to people who live in locales where they are banned, the Company
9 recklessly and carelessly continues to expose itself to a substantial likelihood of liability.

10 **B. SMITH & WESSON’S MISLEADING ASSOCIATION WITH MILITARY**
11 **AND LAW ENFORCEMENT**

12 83. Smith & Wesson’s marketing campaign also caters to the characteristics and
13 preferences of a dangerous and easily influenced segment of society and promotes the AR-15 Rifle’s
14 suitability for offensive military-style combat missions by repeatedly and falsely associating Smith
15 & Wesson civilian products with the United States military and law enforcement, including, but not
16 limited to, by:

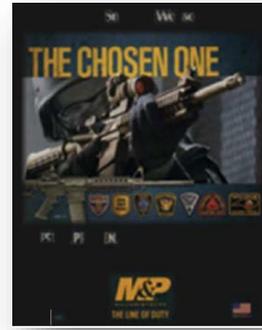
- 17 (i) falsely representing or suggesting that Smith & Wesson products are
18 utilized or endorsed by military and law enforcement;
- 19 (ii) using “M&P” in the “M&P 15” designation of its AR-15 Rifles to
20 stand for “Military & Police”; and
- 21 (iii) showing Smith & Wesson products similar to its AR-15 Rifles
22 being used by, or positioned near, individuals wearing what appear
23 to be military and/or law enforcement uniforms or gear, with text
resembling oaths taken by military and/or law enforcement
personnel, and implying that Smith & Wesson products are
“[s]elected” or “[c]hosen” by these groups, reinforcing this
association with pictures of American flags.

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26 ⁴⁶ Sixteen states and the District of Columbia have enacted laws that impose a minimum age (18
or 21) at which persons can possess AR-15 Rifles.

27 ⁴⁷ Ten states (California, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, New
28 Jersey, New York, and Washington), as well as the District of Columbia, have enacted laws that
generally ban the sale, manufacture, and transfer of AR-15 Rifles.

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84. In publicly available documents, Smith & Wesson has referred to the strategy of associating its products with the military and law enforcement for the purpose of attracting civilian consumers as the “halo effect.” Smith & Wesson has explained to investors that the “halo [effect]”

1 benefits its AR-15 Rifle brand by conferring “credibility” on its products in the eyes of civilian
2 consumers.

3 85. However, this supposed association of Smith & Wesson’s AR-15 Rifles with the
4 United States military and law enforcement, which promotes the notion that Smith & Wesson
5 weapons are well-suited for offensive military-style combat missions, is a fiction aimed at deceiving
6 the public and attracting a dangerous class of would-be mass shooters.

7 86. The intent of Smith & Wesson’s branding and marketing campaign is clear: to
8 increase civilian sales by conveying the deceptive implied claim that its AR-15 Rifles are approved
9 and used by the U.S. military and law enforcement.

10 87. The Company’s emphasis on militaristic and law enforcement imagery in its AR-15
11 Rifle marketing aligns with advice from the National Shooting Sports Foundation to the industry in
12 2017 that the segment of the consumer market “most likely to purchase [an AR-15-style rifle] . . .
13 places value on firearms that have been recommended or used by professionals.”

14 88. The implication that Smith & Wesson’s AR-15 Rifles are endorsed or regularly used
15 by the United States military and law enforcement increases their “credibility” and consequently
16 makes it more likely that consumers will purchase them. The company’s public statements regarding
17 its “halo effect” strategy reveal Smith & Wesson’s belief that those associations are material to
18 consumers.

19 89. The narratives intentionally conveyed by Smith & Wesson’s advertising combine to
20 promote its products in a way which increases the likelihood of their foreseeable misuse by
21 individuals that will use its products for illegal purposes, including to carry out offensive, military-
22 style combat missions against their perceived enemies.

23 90. In fact, the selection and use of Smith & Wesson’s AR-15 Rifles makes it more
24 difficult and more dangerous for law enforcement to respond to mass shootings. A recently released
25 interim report focused on the mass shooting at an elementary school in Uvalde, Texas revealed that

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1 the perpetrator's use of an AR-15 Rifle caused 376 responding law enforcement to fear for their
2 own safety and wait 73 minutes before taking action to eliminate the perpetrator.⁴⁸

3 91. Had the responding law enforcement officers faced a perpetrator wielding a handgun
4 or other traditional firearm, they would not have required specialized protective equipment to ensure
5 their own safety, and it is likely that they would have acted more quickly and saved more lives.⁴⁹

6 92. Based on the use of false information to promote the use of its AR-15 Rifles for
7 foreseeable mass shootings, the Company's marketing practices violate state consumer protection
8 and tort laws (*e.g.*, Illinois Consumer Fraud and Deceptive Business Practices Act, Illinois Uniform
9 Deceptive Trade Practices Act, etc.), and Smith & Wesson lacks the protection otherwise afforded
10 to gun manufacturers under the PLCAA.

11 **C. SMITH & WESSON IGNORES LAWS LIMITING AND BANNING AR-15**
12 **RIFLES**

13 *a. The Company's AR-15 Rifles Violate State and Local Law*

14 93. Ten states (*i.e.*, California, Connecticut, Delaware, Hawaii, Illinois, Maryland,
15 Massachusetts, New Jersey, New York, and Washington), as well as the District of Columbia, have
16 enacted laws that generally ban the sale, manufacture, and transfer of AR-15 Rifles.

17 94. Three of the recent mass shootings that were perpetrated with the Company's AR-
18 15 Rifles were in states banning the sale, manufacture, and transfer of AR-15 Rifles (*i.e.*, California
19 and Illinois).

20 95. Notwithstanding the state and local laws banning the sale, manufacture, and transfer
21 of AR-15 Rifles, the Individual Defendants knowingly and intentionally fail to take any steps to
22 prevent or curb Smith & Wesson's continued marketing and sale of the Company's AR-15 Rifles
23 in those jurisdictions.

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25 ⁴⁸ Texas House of Representatives, *Investigative Committee on the Robb Elementary Shooting,*
26 *Interim Report 2022*, at pp. 48-66 (July 17, 2022),
27 https://static.texastribune.org/media/files/d005cf551ad52eea13d8753ede93320c/Uvalde%20Robb%20Shooting%20Report%20-%20Texas%20House%20Committee.pdf?_ga=2.157349050.1435251990.1659967878-2065135766.1659967878.

28 ⁴⁹ *Id.*

1 96. Based on the use of the Company’s AR-15 Rifles to perpetrate mass shootings in
2 states banning the sale, manufacture, and transfer of AR-15 Rifles, the Individual Defendants knew
3 that the Company’s AR-15 Rifles have at all times been sold, manufactured, and/or transferred to
4 individuals in violation of state and local law.

5 **III. CURRENT INVESTIGATIONS, LAWSUITS, AND EXPOSURE TO LIABILITY**

6 97. Recently, on December 20, 2022, the City of Buffalo, New York, filed a lawsuit
7 against the Company and others in connection with the “design, manufacturing, importing, selling,
8 marketing and distribution of ... firearms” that “have created maintained, or contributed to a
9 condition in the City of Buffalo that endangers the safety and health of the public.”⁵⁰

10 98. Before that, on September 27, 2022, and September 28, 2022, survivors and families
11 of victims of the Fourth of July shooting in Highland Park, Illinois, filed lawsuits against the
12 Company in connection with its marketing of AR-15 Rifles.⁵¹

13 99. Throughout those lawsuits, the Company’s bases for liability turn on its needless,
14 unfair, deceptive, and unlawful marketing of AR-15 Rifles in a way that attracts, encourages, and
15 facilitates mass shooters.⁵²

16 100. And, on May 26, 2022, in the wake of the mass shootings in Buffalo and Uvalde, the
17 U.S. House of Representatives Committee on Oversight and Reform (“Committee”) opened an
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19 ⁵⁰ Mike Curley, *Buffalo Sues Firearms Makers Over Gun Violence And Deaths*, LAW360 (Dec. 20,
20 2022), available at <https://www.law360.com/articles/1560231/buffalo-sues-firearms-makers-over-gun-violence-and-deaths>; Complaint, *The City of Buffalo v. Smith & Wesson Brands, Inc.*, No. 815602/2022 (N.Y. Sup. Dec. 20, 2022).

21 ⁵¹ Emily Field, *Ill. Families Sue Smith & Wesson Over July 4 Shooting*, LAW360 (Sept. 28, 2022),
22 available at <https://www.law360.com/articles/1534965/ill-families-sue-smith-wesson-over-july-4-shooting>;
23 Complaint, *Roberts v. Smith & Wesson Brands, Inc.*, No. 22LA00000487 (Ill. Cir. Ct. Sept. 27, 2022);
24 Complaint, *Rodriguez v. Smith & Wesson Brands, Inc.*, No. 22LA00000492 (Ill. Cir. Ct. Sept. 27, 2022);
25 Complaint, *Sedano v. Smith & Wesson Brands, Inc.*, No. 22LA0490 (Ill. Cir. Ct. Sept. 27, 2022);
26 Complaint, *Straus v. Smith & Wesson Brands, Inc.*, No. 22LA0489 (Ill. Cir. Ct. Sept. 27, 2022);
27 Complaint, *Sundheim v. Smith & Wesson Brands, Inc.*, No. 22LA0488 (Ill. Cir. Ct. Sept. 27, 2022);
28 Complaint, *Tenorio v. Smith & Wesson Brands, Inc.*, No. 22LA0493 (Ill. Cir. Ct. Sept. 27, 2022);
Complaint, *Toledo v. Smith & Wesson Brands, Inc.*, No. 22LA0495 (Ill. Cir. Ct. Sept. 27, 2022);
Complaint, *Vergara v. Smith & Wesson Brands, Inc.*, No. 22LA0494 (Ill. Cir. Ct. Sept. 27, 2022);
Complaint, *Zeifert v. Smith & Wesson Brands, Inc.*, No. 22LA0496 (Ill. Cir. Ct. Sept. 27, 2022);
Complaint, *Turnipseed v. Smith & Wesson Brands, Inc.*, No. 22LA0497 (Ill. Cir. Ct. Sept. 28, 2022) (collectively, and with any omitted related cases, the “Highland Park Cases”).

⁵² Complaint ¶ 5, *Turnipseed v. Smith & Wesson Brands, Inc.*, No. 22LA0497 (Ill. Cir. Ct. Sept. 28, 2022).

1 inquiry into five leading manufacturers of AR-15 Rifles, including Smith & Wesson.⁵³ The
2 Committee sought documents and information related to your company’s manufacture, marketing,
3 and sale of AR-15-style firearms.⁵⁴

4 101. As explained in the May 26 letter, the Committee investigated the Company’s
5 practices related to AR-15 Rifles to inform legislative efforts to achieve common-sense gun safety
6 measures to save American lives. In connection therewith, on July 27, 2022, the Committee released
7 a memorandum (“Committee Report”) addressing the Company’s manufacture, marketing, and
8 sales of AR-15 Rifles, and which extensively details false and/or problematic marketing practices
9 for which the Company is unprotected from liability under the Protection of Lawful Commerce in
10 Arms Act (“PLCAA”).⁵⁵

11 102. Moreover, because the Company refused to comply with the Committee’s requests,
12 it now faces a subpoena and potential legal action in connection with the Committee’s
13 investigation.⁵⁶

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18 ⁵³ Jacob Knutson, *House Oversight panel investigates gun makers after Uvalde mass shooting*,
19 AXIOS (May 27, 2022), [https://www.axios.com/2022/05/27/house-oversight-gun-manufacturers-
20 investigation-ualde](https://www.axios.com/2022/05/27/house-oversight-gun-manufacturers-investigation-ualde); Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and
21 Reform, to Mark P. Smith, President and Chief Executive Officer, *Smith & Wesson Brands, Inc.*
22 (May 26, 2022), [https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-05-
26.CBM%20to%20Smith-Smith%20and%20Wesson%20Brands%20re%20Gun%20Violence.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-05-26.CBM%20to%20Smith-Smith%20and%20Wesson%20Brands%20re%20Gun%20Violence.pdf).

23 ⁵⁴ Committee on Oversight and Reform, *Press Release: Chairwoman Maloney Launches
24 Investigation into Manufacturers of Assault Weapons Used in Mass Shootings* (May 27, 2022),
25 [https://oversight.house.gov/news/press-releases/chairwoman-maloney-launches-investigation-into-
26 manufacturers-of-assault-weapons](https://oversight.house.gov/news/press-releases/chairwoman-maloney-launches-investigation-into-manufacturers-of-assault-weapons).

27 ⁵⁵ See *Soto v. Bushmaster Firearms Int'l, LLC*, 331 Conn. 53, 202 A.3d 262 (2019) (PLCAA did
28 not bar plaintiffs’ claims that defendants violated the Connecticut Unfair Trade Practices Act);
Committee on Oversight and Reform, *Memorandum: The Committee’s Investigation into Gun
Industry Practices and Profits*, at 10-11, 14 (July 27, 2022),
[https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022.07.27%20Supplementa
1%20MEMO%20for%20the%207-27-2022%20FC%20Gun%20Manufacturer%20Hearing.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022.07.27%20Supplemental%20MEMO%20for%20the%207-27-2022%20FC%20Gun%20Manufacturer%20Hearing.pdf)
(providing examples of false and/or misleading advertising by Smith & Wesson).

⁵⁶ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Mark
P. Smith, President and Chief Executive Officer, *Smith & Wesson Brands, Inc.* (August 1, 2022),
[https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-08-
01.CBM%20to%20Smith-Smith%20and%20Wesson%20re%20Subpoena.pdf](https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2022-08-01.CBM%20to%20Smith-Smith%20and%20Wesson%20re%20Subpoena.pdf).

1 103. Similarly, in 2020, 2021, and 2022, complaints were filed with the Federal Trade
2 Commission (“FTC”) regarding the Company’s allegedly unfair and deceptive advertising of AR-
3 15 Rifles.⁵⁷

4 104. However, Buffalo’s lawsuit, the lawsuits related to the Highland Park shooting, the
5 Committee’s investigation, and the FTC complaints are only the most recent developments in Smith
6 & Wesson’s significant exposure to liability.

7 105. For example: (i) courts in Delaware, Ohio, and California have ruled that gun
8 manufacturers are not protected by the PLCAA and face liability for “public nuisance” claims
9 related to the destruction created by firearms they have manufactured;⁵⁸ (ii) on July 2, 2021, the
10 California Superior Court for San Diego County ruled that victims of the 2019 Chabad of Poway
11 synagogue shooting could sue Smith & Wesson (*i.e.*, the Company was not protected by the
12 PLCAA) for choosing to design its rifle in a manner that could easily be modified to fire
13 automatically and for advertising that design;⁵⁹ (iii) on May 25, 2022, the Northern District of New
14 York ruled that firearm sellers, manufacturers and distributors may be sued by the state, cities, or

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18 ⁵⁷ See Everytown Law, FTC Complaint (Mar. 31, 2020), available at
<https://everytownlaw.org/documents/2020/05/ftc-letter.pdf/>; Everytown Law, FTC Complaint
19 (Aug. 17, 2021), available at <https://t.e2ma.net/click/de38sg/t67nfh/5jejav>; Smith & Wesson, Form
10-K at 26 (June 22, 2023), available at
<https://www.sec.gov/Archives/edgar/data/1092796/000095017023029412/swbi-20230430.htm>.

20 ⁵⁸ *Sills v. Smith & Wesson Corp.*, 2000 Del. Super. LEXIS 444 (Super. Ct. Dec. 1, 2000) (denying
21 defendants’ motions to dismiss claims brought by a mayor and city for damages resulting from
22 destruction attributed to handguns); *City of Cincinnati v. Beretta U.S.A. Corp.*, 768 N.E.2d 1136,
1142 (Ohio 2002) (allowing public nuisance claim to proceed because the “complaint alleged that
23 appellees created a nuisance through their ongoing conduct of marketing, distributing, and selling
24 firearms in a manner that facilitated their flow into the illegal market” and thus that the
25 manufacturers “control[led] the creation and supply of this illegal, secondary market for firearms,
not the actual use of the firearms that cause injury”); *Ileto v. Glock Inc.*, 349 F.3d 1191 (9th Cir.
2003) (reversing dismissal of public nuisance suit against gun manufacturer because, under
California law, “the nuisance claim rests on the defendants’ actions in creating an illegal secondary
market for guns by purposefully over-saturating the legal gun market in order to take advantage of
re-sales to distributors that they know or should know will in turn sell to illegal buyers”).

26 ⁵⁹ *Goldstein v. Earnest*, No. 37-2020-00016638-CU-PO-CTL, Dkt. No. 289 (Cal. Supr. Ct. San
27 Diego, July 2, 2021) (order denying motion to dismiss); Brendan Pierson, *Smith & Wesson must
28 face synagogue shooting victims’ suit*, REUTERS (July 8, 2021),
[https://www.reuters.com/legal/litigation/smith-wesson-must-face-synagogue-shooting-victims-
suit-2021-07-08/](https://www.reuters.com/legal/litigation/smith-wesson-must-face-synagogue-shooting-victims-suit-2021-07-08/).

1 individuals for creating a “public nuisance” that endangers the public’s safety and health;⁶⁰ (iv) on
2 July 22, 2022, California’s Governor, Gavin Newsom, signed into law a bill that will make Smith
3 & Wesson liable for \$10,000 in damages and attorneys’ fees for each AR-15 Rifle the Company has
4 manufactured being distributed or sold in California;⁶¹ (v) on December 27, 2022, the District of
5 New Jersey granted the State of New Jersey’s motion to dismiss Smith & Wesson’s lawsuit to block
6 New Jersey’s attorney general from enforcing a subpoena to investigate whether the company
7 committed fraud while advertising firearms to consumers;⁶² and (vi) on January 24, 2024, the First
8 Circuit reversed the dismissal of a \$10 billion lawsuit by Mexico related to the unlawful use of the
9 Company’s firearms by drug cartels, after determining that Smith & Wesson’s “design decisions,
10 marketing tactics, and repeated supplying of dealers known to sell guns that cross the border – with
11 the intent of growing and maintaining an illegal market in Mexico from which they receive
12 substantial revenues,” triggered a “predicate exception” to immunity under PLCAA.⁶³

13 106. Even those cases that do not directly involve Smith & Wesson should serve as a dire
14 warning to the Individual Defendants about the risks the Company faces—*i.e.*, red flags of the

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17 ⁶⁰ *Nat'l Shooting Sports Found., Inc. v. James*, 2022 U.S. Dist. LEXIS 93541 (N.D.N.Y. May 25,
18 2022); Nate Raymond, *Gunmakers lose challenge to New York law allowing lawsuits against
19 industry*, REUTERS (May 25, 2022), [https://www.reuters.com/world/us/gun-makers-lose-challenge-
20 new-york-law-allowing-lawsuits-against-industry-2022-05-25/](https://www.reuters.com/world/us/gun-makers-lose-challenge-new-york-law-allowing-lawsuits-against-industry-2022-05-25/).

21 ⁶¹ California Senate, *Senate Bill 1327* (July 22, 2022),
22 https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1327; Hannah
23 Wiley, *Newsom signs gun law modeled after Texas abortion ban, setting up Supreme Court fight*,
24 LA TIMES (July 22, 2022), [https://www.latimes.com/california/story/2022-07-22/newsom-signs-
25 gun-bill-modeled-after-texas-abortion-ban-setting-up](https://www.latimes.com/california/story/2022-07-22/newsom-signs-gun-bill-modeled-after-texas-abortion-ban-setting-up); Erwin Chemerinsky, *Op-Ed: Is California's
26 new gun law, modeled after the Texas abortion law, constitutional?*, LA TIMES (July 23, 2022),
27 [https://www.latimes.com/opinion/story/2022-07-23/gun-restrictions-newsom-private-lawsuits-
28 texas-law](https://www.latimes.com/opinion/story/2022-07-23/gun-restrictions-newsom-private-lawsuits-texas-law).

⁶² *See Smith & Wesson Brands, Inc. v. Grewal*, 2022 WL 17959579 (D.N.J. Dec. 27, 2022).

⁶³ *Estados Unidos Mexicanos v. Smith & Wesson Brands, Inc.*, 91 F.4th 511, 526-32 (1st Cir.
2024), cert. granted, No. 23-1141, 2024 WL 4394115 (U.S. Oct. 4, 2024); Catton, et al., *Mexico
Sues Smith & Wesson and Glock Over Cartel Violence*, BLOOMBERG (Aug. 4, 2021),
25 [https://www.bloomberg.com/news/articles/2021-08-04/mexico-sues-smith-wesson-and-glock-
26 over-smuggled-firearms](https://www.bloomberg.com/news/articles/2021-08-04/mexico-sues-smith-wesson-and-glock-over-smuggled-firearms); Nate Raymond, *U.S. gun makers urge judge to throw out Mexico's \$10
27 billion lawsuit*, REUTERS (April 12, 2022), [https://www.reuters.com/world/americas/us-gunmakers-
28 ask-judge-toss-mexicos-10-billion-lawsuit-2022-04-12/](https://www.reuters.com/world/americas/us-gunmakers-ask-judge-toss-mexicos-10-billion-lawsuit-2022-04-12/); MND Staff, *Mexico to appeal after US
judge dismisses lawsuit against gun manufacturers*, MEXICO NEWS DAILY (Oct. 3, 2022), available
at [https://mexiconewsdaily.com/news/mexico-to-appeal-after-us-judge-dismisses-lawsuit-against-
gun-manufacturers/](https://mexiconewsdaily.com/news/mexico-to-appeal-after-us-judge-dismisses-lawsuit-against-gun-manufacturers/).

1 exposure liability that the Company’s manufacturing, marketing, and sales of AR-15 Rifles has and
2 continues to cause.

3 **IV. BY FAILING TO TAKE ACTION IN RESPONSE TO NUMEROUS RED FLAGS**
4 **CONCERNING THE RISKS OF MANUFACTURING, MARKETING, AND**
5 **SELLING AR-15 RIFLES, THE DIRECTOR DEFENDANTS BREACHED THEIR**
6 **FIDUCIARY DUTIES**

7 107. The Board’s most fundamental responsibility is to ensure that the Company is
8 operating within the law. Indeed, Smith & Wesson’s directors owe fiduciary duties to the Company
9 and its stockholders to conduct adequate oversight to ensure that Smith & Wesson is not flouting
10 any governing laws and regulations, or otherwise operating in such a manner that it would be
11 exposed to significant liability.

12 108. In carrying out these duties, the Board must exercise its duty of oversight by creating
13 information and reporting systems to monitor all “mission critical” aspects of the business. As a
14 highly regulated firearm manufacturer, one “mission critical” aspect of Smith & Wesson’s business
15 is legal compliance, which is required for the Company to be protected from liability for crimes that
16 are committed with Smith & Wesson products under the PLCAA. In fact, the Company’s Code of
17 Conduct states: “Obeying the law, both in letter and in spirit, is the foundation on which the
18 Company’s ethical standards are built.”

19 109. Thus, it is of utmost importance to the Company and its stockholders that the Board
20 maintains an information and reporting system such that it can monitor the “mission critical” risk of
21 preventing exposure to liability outside the protection afforded to Smith & Wesson by the PLCAA
22 through the Company’s violation of state and local law.

23 110. Despite the importance of operating under the protections of the PLCAA, the
24 Director Defendants have no system for monitoring or tracking injuries and deaths caused by Smith
25 & Wesson AR-15 Rifles, whether from accidental discharge, product malfunction, or deliberate use,
26 nor do they have any means for tracking crimes committed with their products.⁶⁴

27 ⁶⁴ Committee, Report at 20 (July 27, 2022), available at
28 <https://docs.house.gov/meetings/GO/GO00/20220727/115024/HHRG-117-GO00-20220727-SD005.pdf>.

1 111. In fact, the Board’s willful failure to monitor or track injuries and deaths caused by
2 Smith & Wesson AR-15 Rifles causes the Director Defendants to be blind to the potential liability
3 that the Company faces in connection with known: (i) violations of various state and local laws
4 banning AR-15 Rifles;⁶⁵ (ii) violations of various state and local consumer protection laws
5 prohibiting deceptive, false, and/or misleading marketing of AR-15 Rifles;⁶⁶ and (iii) illicit
6 diversion of its AR-15 Rifles to juveniles, criminals, and other persons who are prohibited from
7 owning guns.⁶⁷

8 112. The Individual Defendants’ oversight failures also violate internal Company policies
9 and corporate governance documents, including the: (i) Corporate Governance Guidelines; (ii)
10 Audit Committee Charter; and (iii) ESG Committee Charter.

11 113. Smith & Wesson’s Corporate Governance Guidelines state, in relevant part:

12 The Board, as a whole and through its committees, has responsibility for the
13 oversight of risk management. In its oversight role, the Board’s involvement in the
14 Company’s business strategy and strategic plans plays a key role in its oversight of
15 risk management, its assessment of management’s risk appetite, and its
16 determination of the appropriate level of enterprise risk. The Board requires
17 periodic updates from senior management and from outside advisors regarding the
18 various risks the Company faces, including operational, economic, financial, legal,
19 regulatory, and competitive risks.⁶⁸

20 114. By not having any reporting channel related to the “mission critical” risk of
21 preventing exposure to liability outside the protection afforded to Smith & Wesson by the PLCAA
22 through the Company’s violation of state and local law, the Director Defendants are in clear
23 violation of the Corporate Governance Guidelines.

24 115. In describing the Audit Committee’s duties and responsibilities, Smith & Wesson’s
25 Audit Committee Charter states, in relevant part, that it must:

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27 ⁶⁵ See, e.g., *Goldstein v. Earnest*, No. 37-2020-00016638-CU-PO-CTL, Dkt. No. 289 (Cal. Supr.
28 Ct. San Diego, July 2, 2021) (order denying motion to dismiss); Highland Park Cases.

⁶⁶ *Id.*

⁶⁷ See, e.g., *The City of Buffalo v. Smith & Wesson Brands, Inc.*, Index No. 815602/2022 (N.Y.
Sup. Erie County); *The City of Buffalo v. Smith & Wesson Brands, Inc.*, No. 23-cv-00066-FPG
(W.D.N.Y.).

⁶⁸ Corporate Governance Guidelines at 4.

1 Discuss with management and the independent auditor the Company’s major
2 financial risk exposures, the guidelines and policies by which risk assessment and
management is undertaken, and the steps management has taken to monitor and
control risk exposure.⁶⁹

3 116. As the Company produced no Audit Committee minutes in response to Plaintiffs’
4 Section 16.02 demand, it is reasonable to infer that there were no such minutes related to Smith &
5 Wesson’s potential exposure to liability in connection with its manufacturing, marketing, or sales
6 of AR-15 Rifles.

7 117. Thus, by admittedly not monitoring the “mission critical” risk of preventing exposure
8 to liability outside the protection afforded to Smith & Wesson by the PLCAA through the
9 Company’s violation of state and local law, and not otherwise monitoring risks related to AR-15
10 Rifles, Director Defendants are in clear violation of the Audit Committee Charter requirement that
11 its members “monitor and control risk exposure.”

12 118. In describing the ESG Committee’s duties and responsibilities, Smith & Wesson’s
13 ESG Committee Charter states, in relevant part:

14 The purpose of the Environmental, Social, and Governance, or ESG, Committee is
15 to assist the Board of Directors (the “Board”) and its various committees, as
16 applicable, in fulfilling the oversight responsibilities of the Board with various
17 environmental, social, health, safety, and governance policies and operational
18 control matters relevant to the Company, or ESG Matters, particularly those that do
19 not come within the purview of other standing committees of the Board or the
Board itself. ... The Committee shall report to the Board current and emerging
topics relating to ESG Matters that may affect the business, performance, or public
image of the Company or are otherwise pertinent to the Company and its
stakeholders.⁷⁰

20 119. In response to Plaintiffs’ Section 16.02 demand, the Company produced minutes
21 from one March 20, 2023 meeting of the ESG Committee, revealing that its members did not
22 seriously consider Smith & Wesson’s litigation risk whatsoever. In fact, in minutes that Plaintiffs
23 infer must represent the only discussion that the ESG Committee had about the Company’s exposure
24 to liability, its members concluded summarily that all “issues related to domestic litigation ...

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⁶⁹ Audit Committee Charter at 4.

28 ⁷⁰ ESG Committee Charter at 1, 3.

1 international litigation ... [and] regulatory and investor issues ... [are] driven by gun control
2 activists.”⁷¹

3 120. Further, by not having any reporting channel related to the “mission critical” risk of
4 preventing exposure to liability outside the protection afforded to Smith & Wesson by the PLCAA
5 through the Company’s violation of state and local law, the Director Defendants are in clear
6 violation of the ESG Committee Charter.

7 121. The Individual Defendants’ lack of oversight related to the Company’s “mission
8 critical” risk of exposure to liability outside the protections of the PLCAA in connection with its
9 manufacturing, marketing, and sales of AR-15 Rifles is also contrary to the interests of the
10 Company, and contrary to the express position of many Smith & Wesson stockholders.

11 122. Since at least 2018, through stockholder proposals and public comments, numerous
12 Smith & Wesson stockholders (including Plaintiffs, other members of the Interfaith Center on
13 Corporate Responsibility, BlackRock, Glass Lewis, and Majority Action) have advocated for the
14 Board to monitor the risks facing the Company through the use of its AR-15 Rifles to perpetrate gun
15 violence in the U.S.

16 123. Despite the Director Defendants consistently recommending that stockholders vote
17 against these proposals, they have garnered significant support, with Smith & Wesson even
18 approving the 2018 stockholder proposal that the Board issue a report providing: (i) evidence of
19 monitoring of violent events associated with products produced by the company; (ii) efforts to
20 research and produce safer guns and gun products; and (iii) an assessment of the corporate
21 reputational and financial risks related to gun violence in the U.S.

22 124. On February 8, 2019, the Board issued the Shareholder Requested Report on Product
23 Safety Measures and Monitoring of Industry Trends (“Monitoring Report”), which further
24 established the Director Defendants failure to monitor legal risks related to the Company’s
25 manufacturing, marketing, and sales of AR-15 Rifles.⁷²

27 ⁷¹ SWBI_107.

28 ⁷² Smith & Wesson, Monitoring Report (Feb. 9, 2019), available at
<https://www.sec.gov/Archives/edgar/data/1092796/000119312519032245/d704097dex991.htm>.

1 125. While noting the Board’s “oversight of risk management, its assessment of
2 management’s risk appetite, and its determination of the appropriate level of enterprise risk,” the
3 only “reputational and financial risks” that the Monitoring Report considered were those related to
4 its profits and sales.

5 126. Indeed, despite representing a breach of fiduciary duty to the Company and its
6 stockholders who voted in favor of the 2018 stockholder proposal, the Monitoring Report explicitly
7 makes clear that the Board considers customer interests before those to whom they owe a fiduciary
8 duty:

9 The Company’s reputation as a strong defender of the Second Amendment is not
10 worth risking for a vague goal of improving the Company’s reputation among non-
11 customers or special interest groups with an anti-Second Amendment agenda.
12 [Smith & Wesson’s] customer base of knowledgeable, law abiding firearms
13 purchasers does not blame Smith & Wesson, or any other firearms brand, for the
malfeasance of criminals or the actions of the mentally or emotionally impaired. In
fact, they are more inclined to support greater access to firearms by private citizens
to help prevent and protect themselves from these tragedies.

14 Moreover, [Smith & Wesson] disagrees that it must adopt elements of a gun control
15 agenda, or otherwise appease factions that are fundamentally opposed to private
16 gun ownership, in order to prove that the Company understands and is taking
17 appropriate steps to mitigate the risks that accompany manufacturing firearms in
the United States. In this context, reputation risk management is not an endeavor
meaningfully associated with winning the support of one’s detractors.

18 127. In other words, rather than explaining the Board’s oversight and/or monitoring of
19 risks related to the Company’s manufacturing, marketing, and sales of AR-15 Rifles, the Monitoring
20 Report establishes that the Board knowingly decided to prioritize short-term profits and sales over
21 the long-term legal risks resulting from the same.

22 128. And, at the Company’s annual meetings from 2018 to 2023, stockholder proposals
23 related to the Board’s oversight of AR-15 Rifle-related risks received votes in favor from an average
24 of 40.6% of voting shares.

25 129. Whether or not these stockholder proposals were approved, they represent clear proof
26 that a significant portion of the Company’s stockholders have concluded that the Director
27 Defendants are violating their duty of oversight, and that it would be in their interest for the Board
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1 to monitor the risks facing the Company in connection with its manufacturing, marketing, and sales
2 of AR-15 Rifles.

3 130. Moreover, by acting contrary to the interests of the Company and its stockholders,
4 the Director Defendants are violating their most “basic responsibility” under Smith & Wesson’s
5 Corporate Governance Guidelines, which provide, in relevant part:

6 The basic responsibility of the directors is to exercise their business judgment to
7 act in what they reasonably believe to be in the best interests of the Company and
8 its stockholders.⁷³

9 131. Instead, by assuming that the short-term profits from the Company’s manufacturing,
10 marketing, and sales of AR-15 Rifles outweighs the resulting risks of exposure to liability (without
11 monitoring or even considering those risks), the Director Defendants have resolved to maintain the
12 status quo and violate various state and local laws.

13 132. Notwithstanding the clear evidence to the contrary, the Company’s President and
14 Chief Executive Officer, Mark Smith, continues to precipitate the abject management failures that
15 threaten Smith & Wesson, publicly stating that “a Smith & Wesson firearm has never broken into a
16 home; a Smith & Wesson firearm has never assaulted a woman out for a late-night run in the city;
17 a Smith & Wesson firearm has never carjacked an unsuspecting driver stopped at a traffic light.
18 Instead, Smith & Wesson provides these citizens with the means to protect themselves and their
19 families.”⁷⁴

20 133. The release of this statement makes clear that the Company’s Board and executives
21 either lack a reporting system to alert them about the real-world consequences and liability faced by
22 the Company in connection with the marketed use of its AR-15 Rifles, or they affirmatively decided
23 that the Company’s short-term profits from the sale of AR-15 Rifles outweigh the substantial and
24 devastating likelihood of liability that this practice has caused, and will cause, the Company to

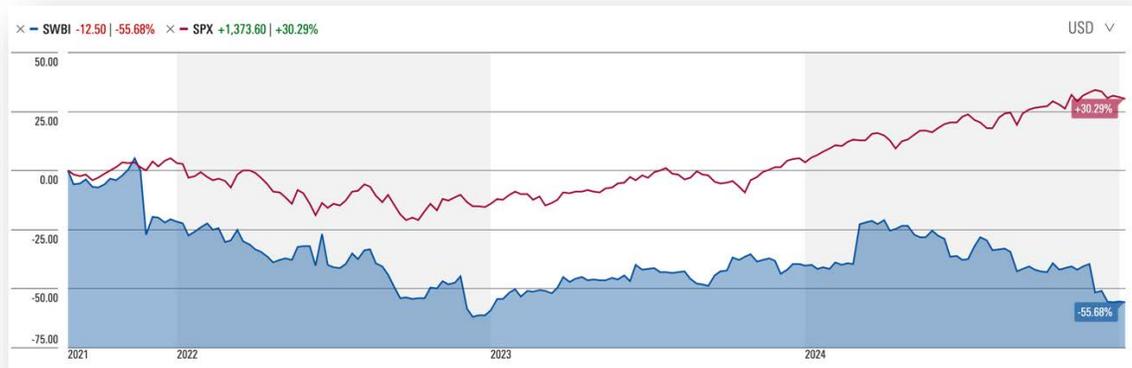
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26 ⁷³ Corporate Governance Guidelines at 2.

27 ⁷⁴ Mark Smith, *Smith & Wesson CEO Issues Strong Statement in the Face of 2nd Amendment*
28 *Attacks* (Aug. 15, 2022), available at https://www.smith-wesson.com/sites/default/files/press-release/Smith%20%26%20Wesson%20CEO%20Issues%20Strong%20Statement%20in%20the%20Face%20of%202nd%20Amendment%20Attacks_8_15_Final.pdf.

1 confront (to say little of the lack of humanity in recognizing the undisputable fact that the AR-15 is,
 2 and has proven to be time and again, a mass killing machine with no other utility).

3 134. In fact, a comparison between the Company’s stock price and the S&P 500 since
 4 September 2021 shows that the market has already begun factoring mismanagement and concerns
 5 about liability into Smith & Wesson’s future performance:



13 135. Despite Smith & Wesson’s recent reporting of substantial profits related to
 14 manufacturing, marketing, and sales of AR-15 Rifles, it is clear that these practices represent a
 15 foreseeable long-term risk to the Company, could cause the Company irreparable harm, and the
 16 Board owes the Company and its stockholders a duty to prevent such harm from materializing.

17 136. Several examples of this foreseeable harm include: (i) the loss of institutional
 18 investor funds;⁷⁵ (ii) exposure to regulatory scrutiny, lawsuits, and negative press;⁷⁶ and (iii)
 19 exposure to substantial liability that causes the Company great financial harm, up to and including

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23 ⁷⁵ See Antoine Gara, *Years After Sandy Hook Shooting, Pension Fund CalSTRS Exits Cerberus-*
 24 *Backed Remington*, FORBES.COM (June 8, 2015),
<https://www.forbes.com/sites/antoinegara/2015/06/08/years-after-sandy-hook-shooting-pension-fund-calstrs-exits-cerberus-backed-remington/?sh=2d3835ed1d2e>.

25 ⁷⁶ See, e.g., Canipe, et al., *What the deadliest mass shootings have in common*, AXIOS (Sept. 7,
 26 2019), <https://www.axios.com/2019/09/07/deadliest-mass-shootings-common>; Sorkin, et al., *The*
 27 *Most Important Lawsuit You’ve Never Heard Of*, NY TIMES (Mar. 2, 2021),
<https://www.nytimes.com/2021/03/02/business/dealbook/new-jersey-lawsuit-smith-wesson.html>;
 Timothy L. O’Brien, *Uvalde Families Should Take Gunmakers to Court*, WASHINGTON POST (May
 28 26, 2022), https://www.washingtonpost.com/business/uvalde-families-should-take-gunmakers-to-court/2022/05/26/fcb38c10-dce7-11ec-bc35-a91d0a94923b_story.html.

1 bankruptcy.⁷⁷ Indeed, the imminent and devastating harm that the Company is facing from its
2 manufacturing, marketing, and sales of AR-15 Rifles could not be much more foreseeable—*i.e.*, the
3 recent \$73 million settlement between now-bankrupt Remington Arms and the families of Sandy
4 Hook victims based on exactly the same marketing practices used by the Company offers a stark
5 warning.⁷⁸

6 137. The Individual Defendants’ decision to allow the Company to manufacture, market,
7 and sell AR-15 Rifles has exposed Smith & Wesson to a substantial likelihood of liability. Now, the
8 Board’s inaction will ensure that the status quo is maintained, causing the Company’s current actual
9 harm (*e.g.*, cost of defending against current investigations, lawsuits, and regulatory scrutiny) to
10 result in further and irreparable harm.

11 **V. THE COMPANY VIOLATES SECTION 14(A) OF THE EXCHANGE ACT**

12 138. Under Section 14(a) of the Exchange Act and SEC Rule 14a-9 promulgated
13 thereunder, stockholders enjoy a private right of action in connection with a company’s solicitation
14 of proxy votes through any material misrepresentation or omission.⁷⁹

15 139. Here, the Individual Defendants issued materially false statements in support of their
16 recommendation that stockholders vote against stockholder proposals submitted by ADS and
17 affiliates of the Plaintiffs, and the Company issued disclosures that were, at best, materially
18 misleading, about Board-level oversight of material risks.

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20 ⁷⁷ See, *e.g.*, *Soto v. Bushmaster Firearms Int’l, LLC*, 331 Conn. 53, 202 A.3d 262 (2019); Rojas,
21 et al., *Sandy Hook Families Settle With Gunmaker for \$73 Million Over Massacre*, NY TIMES (Feb.
22 15, 2022), <https://www.nytimes.com/2022/02/15/nyregion/sandy-hook-families-settlement.html>;
23 Jesse Barron, *How America’s Oldest Gun Maker Went Bankrupt: A Financial Engineering Mystery*,
24 NY TIMES (May 1, 2019), <https://www.nytimes.com/interactive/2019/05/01/magazine/remington-guns-jobs-huntsville.html>; Gladstone, et al., *Gun Maker Remington Preps for Bankruptcy, Seeks Sale to Navajo Nation*, WALL STREET JOURNAL (June 26, 2020), <https://www.wsj.com/articles/gun-maker-remington-preps-for-bankruptcy-seeks-sale-to-navajo-nation-11593186468>.

25 ⁷⁸ Kim Bellware, *Sandy Hook families announce \$73 million settlement with Remington Arms in landmark agreement*, WASHINGTON POST (Feb. 15, 2022), available at <https://www.washingtonpost.com/nation/2022/02/15/remington-sandy-hook-settlement/>.

26 ⁷⁹ See 17 C.F.R. § 240.14a-9 (“No solicitation . . . shall be made by means of any proxy statement
27 . . . containing any statement which . . . is false or misleading with respect to any material fact, or
28 which omits to state any material fact necessary in order to make the statements therein not false or misleading”); see also *J.I. Case Co. v. Borak*, 377 U.S. 426, 431 (1964); *Mills v. Elec. Auto-Lite Co.*, 396 U.S. 375, 381 (1970).

1 **A. Materially False Statements About Plaintiffs and the 2024 Stockholder Proposal**

2 140. On August 6, 2024, the Director Defendants caused Smith & Wesson to file its
3 annual proxy statement with the SEC in connection with its upcoming annual meeting of
4 stockholders (the “2024 Proxy”).⁸⁰

5 141. In the 2024 Proxy, the Director Defendants solicited stockholder votes against a
6 stockholder proposal that was submitted by ADS and other affiliates of the Plaintiffs (the “2024
7 Proposal”).⁸¹

8 142. With respect to each of the votes solicited against the 2024 Proposal, the 2024 Proxy
9 issued by the Director Defendants contained materially false or misleading statements with
10 knowledge of their falsity or reckless disregard for the truth.

11 143. More specifically, the 2024 Proxy included a section titled “The Board’s Opposition
12 Statement,” which falsely states that, *inter alia*: (i) “[i]n May 2024, ***the court dismissed the Suit,***
13 ***having previously ruled that ‘there is no reasonable possibility that Plaintiffs’ suit will benefit the***
14 ***Company;***” (ii) the Plaintiffs were “admonished by a court for pursuing interests contrary to those
15 of the Company and its stockholders;” (iii) the proponent of the 2024 Proposal “sued [Smith &
16 Wesson] in an effort to prohibit [the Company] from manufacturing, marketing and selling a popular
17 product line;” (iv) the 2024 Proposal would expose the Company to “‘human rights costs’ estimated
18 at **\$557 billion** per year;” (v) imposing the United Nations Guiding Principles on Business and
19 Human Rights would require the Company to “reduce [its] lawful product offerings;” and (vi) “the
20 point” of the 2024 Proposal was “to generate negative publicity” and harm the Company.⁸²

21 144. All of these statements from the 2024 Proxy were materially false or misleading and
22 designed to solicit stockholder votes against the 2024 Proposal by depriving Smith & Wesson
23 stockholders of the truth, without which the stockholders were incapable of making a reasonably
24 informed decision in their vote.

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26 ⁸⁰ Smith & Wesson, Schedule 14(A) Proxy Statement (Aug. 6, 2024), available at
27 [https://www.sec.gov/ix?doc=/Archives/edgar/data/0001092796/000095017024091725/swbi-](https://www.sec.gov/ix?doc=/Archives/edgar/data/0001092796/000095017024091725/swbi-20240806.htm)
28 [20240806.htm](https://www.sec.gov/ix?doc=/Archives/edgar/data/0001092796/000095017024091725/swbi-20240806.htm).

⁸¹ *Id.* at 45-49.

⁸² *Id.* at 46-47.

1 145. *First*, the sole reason that the District Court dismissed the Plaintiffs’ State Court
2 Action without prejudice was that they failed to post a \$500,000 bond—the Director Defendants’
3 suggestion in the 2024 Proxy that the case was dismissed for having “no reasonable possibility” of
4 “benefit[ing] the Company” is a false statement of a material fact.⁸³

5 146. *Second*, the District Court never “admonished” the Plaintiffs “for pursuing interests
6 contrary to those of the Company and its stockholders,” but instead did “not find the claims were
7 brought or maintained without reasonable grounds or to harass,” rendering the material statement
8 from the 2024 Proxy false.⁸⁴

9 147. *Third*, the State Court Action did not seek to “prohibit” Smith & Wesson from
10 “manufacturing, marketing and selling a popular product line,” but rather sought to hold the
11 Individual Defendants’ personally liable for oversight failures in connection with the Company’s
12 exposure to liability, rendering the material statement from the 2024 Proxy false.⁸⁵

13 148. *Fourth*, the 2024 Proposal could not have exposed the Company to “human rights
14 costs’ estimated at of \$557 billion per year,” because that value represents the nationwide value of
15 the economic consequences of gun violence, not the estimated price of the 2024 Proposal to the
16 Company, rendering the material statement from the 2024 Proxy false.⁸⁶

17 149. *Fifth*, it cannot be true that imposing the United Nations Guiding Principles on
18 Business and Human Rights would require the Company to “reduce [its] lawful product offerings,”
19 unless the Company is suggesting that its products are inconsistent with the preservation of human
20 rights—by contrast, it is the Plaintiffs’ view that the Company can and should continue to
21 manufacture, market, and sell firearms to responsible gun owners, while simultaneously mitigating
22

23
24 ⁸³ See Order Dismissing State Court Action Without Prejudice, *Adrian Dominican Sisters v. Smith*,
25 Case No. A-23-882774-B (Nev. Dist. Ct. June 11, 2024) (“Because Plaintiffs failed to post the bond
by April 23, 2024 as provided in the Order, the instant matter is DISMISSED WITHOUT
PREJUDICE pursuant to NRS 41.520(4).”).

26 ⁸⁴ See Transcript of Hearing on Fee Motion at 5:24-6:2, *Adrian Dominican Sisters v. Smith*, Case
No. A-23-882774-B (Nev. Dist. Ct. Sept. 17, 2024).

27 ⁸⁵ See Complaint, *Adrian Dominican Sisters v. Smith*, Case No. A-23-882774-B (Nev. Dist. Ct.
Dec. 5, 2023).

28 ⁸⁶ Omnilert, 2023 Gun Violence Statistics (Jan. 16, 2024), available at
<https://www.omnilert.com/gun-violence-statistics>.

1 the risks its business might have on the human rights of others. Thus, the statement in the 2024
2 Proxy about the impact of the 2024 Proposal on product offerings is materially false or misleading.

3 150. *Sixth*, it is false that “the point” of the Plaintiffs’ State Court Action and 2024
4 Proposal was “to generate negative publicity” and harm the Company and the Individual Defendants
5 know it—in fact, the District Court explicitly held that the Plaintiffs’ actions were “not . . . brought
6 or maintained without reasonable grounds or to harass,” rendering the material statement from the
7 2024 Proxy false.⁸⁷

8 151. Thus, the 2024 Proxy contained materially false statements and omissions of fact
9 which deprived Smith & Wesson’s stockholders of adequate information to make a reasonably
10 informed decision when voting on the 2024 Proposal.

11 **B. Materially Misleading Disclosures About Board-Level Oversight of Risks**

12 152. Since at least 2021, when the ESG Committee was formed, the Company has
13 disclosed that the ESG Committee “[r]eviews emerging risks associated with ESG matters.”⁸⁸

14 153. Notwithstanding its disclosures to the contrary, the ESG Committee does not
15 consider the material risks facing the Company through its manufacturing, marketing, and sale of
16 AR-15 Rifles.

17 154. Indeed, in response to the Plaintiffs’ Section 16.02 Demand, the Company produced
18 minutes from a March 20, 2023 meeting of the ESG Committee that reveals that the members did
19 not seriously consider risk, concluding summarily that all “issues related to domestic litigation ...
20 international litigation ... [and] regulatory and investor issues ... to be driven by gun control
21 activists.”⁸⁹

22 155. Such a perversion of the risks facing the Company is entirely inconsistent with the
23 review of emerging risks.

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26 ⁸⁷ See Transcript of Hearing on Fee Motion at 5:24-6:2, *Adrian Dominican Sisters v. Smith*, Case
27 No. A-23-882774-B (Nev. Dist. Ct. Sept. 17, 2024).

28 ⁸⁸ Smith & Wesson, Schedule 14(A) Proxy Statement at 10 (Aug. 3, 2022), available at
[https://www.sec.gov/Archives/edgar/data/1092796/000156459022027611/swbi-
def14a_20220912.htm](https://www.sec.gov/Archives/edgar/data/1092796/000156459022027611/swbi-def14a_20220912.htm).

⁸⁹ SWBI_107.

1 156. In fact, the ESG Committee’s characterization of risks facing the Company reveals
2 that they are pre-determined to be non-material, rather than reviewed as potentially material risks,
3 either through an objective process and/or with the assistance of independent risk consultants.

4 157. The same lack of oversight is true of the Board’s consideration of material risks.

5 158. Indeed, in response to the Plaintiffs’ Section 16.02 Demand, the Company produced
6 minutes from a December 13, 2022 meeting of the Board that reveals that the members considered
7 “negativity in the media about the Company [to be] largely driven by gun control groups...”⁹⁰

8 159. Even the Digimind media monitoring report that was commissioned by the Board
9 was limited in scope to assessing the “reputational risks” that the Company faced in connection with
10 gun violence in the United States—it did not consider or otherwise provide any information about
11 the real material risks facing the Company in connection with its exposure to liability for
12 manufacturing, marketing, and selling AR-15 Rifles used to commit gun violence.⁹¹

13 160. The reason, put simply, is that the Individual Defendants never considered, or simply
14 ignored, such risks in their single-minded pursuit of short-term profit.⁹²

15 161. Accordingly, Smith & Wesson stockholders are being materially misled about the
16 ESG Committee’s lack of oversight and/or consideration of risks associated with ESG matters.

17 162. Moreover, Smith & Wesson stockholders are being deprived of accurate disclosures
18 regarding the Individual Defendants’ lack of consideration of material risks facing the Company as
19 a result of its manufacturing, marketing, and sale of AR-15 Rifles.

20 **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

21 163. Plaintiffs bring this action derivatively in the right and for the benefit of Smith &
22 Wesson to redress injuries suffered, and to be suffered, by Smith & Wesson as a direct result of
23 breaches of fiduciary duty by the Individual Defendants.

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26 ⁹⁰ SWBI_109.

27 ⁹¹ SWBI_123-133.

28 ⁹² It is reasonable to infer that exculpatory information not reflected in the production of board-level books and records does not exist. *See Teamsters Local 443 Health Serv’s & Ins. Plan v. Chou*, C.A. No. 2019-0816-SG, 2020 WL 5028065, at *24 n.314 (Del. Ch. Aug. 24, 2020).

1 164. Smith & Wesson is named as a nominal defendant solely in a derivative capacity.
2 This is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

3 165. Plaintiffs will adequately and fairly represent the interests of Smith & Wesson in
4 enforcing and prosecuting its rights.

5 166. The wrongful acts complained of herein subject, and will persist in subjecting, the
6 Company to continuing harm because the adverse consequences of the injurious actions are still in
7 effect and ongoing.

8 167. Plaintiffs were stockholders of Smith & Wesson at the time of the wrongdoing
9 complained of, have continuously been stockholders of the company since that time, and are current
10 Smith & Wesson shareholders.

11 168. Plaintiffs repeat and reallege each allegation above as if set forth in full in this
12 Derivative and Demand Futility Allegations section.

13 169. Plaintiffs did not make a demand on the Board to institute this action because pre-
14 suit demand is excused.

15 170. Demand is excused because there exists a reasonable doubt that, at a minimum, at
16 least half of the Board at the time of the filing of this Complaint could properly exercise independent
17 and disinterested business judgment in responding to a demand.

18 171. At the time this action was filed, the Board consisted of the following seven
19 members: Britt, Diaz, Lohmeier, Monheit, Scott, Smith, and Suggs (together, the “Demand Board”).
20 Demand is therefore futile if at least four out of the seven members of the Demand Board lack
21 independence, are not disinterested, or both.

22 172. As set forth below, the Demand Board could not impartially consider and decide
23 whether to assert the claims brought herein because a majority of those directors face a substantial
24 likelihood of liability.

25 **I. BAD FAITH FAILURE TO RESPOND TO KNOWN VIOLATIONS OF FEDERAL,**
26 **STATE, AND LOCAL LAW**

27 173. A Demand on the current Board would be futile because all seven members of the
28 Demand Board—Britt, Diaz, Lohmeier, Monheit, Scott, Smith, and Suggs—face a substantial risk of

1 liability for acting in bad faith by knowingly permitting the Company to manufacture, market, and/or
2 sell AR-15 Rifles in violation of federal, state, and local laws banning individuals from purchasing,
3 using, and/or possessing the same, and for failing to ensure that the Company operated in such a
4 manner that it would be protected from liability under the PLCAA.

5 174. Each member of the Demand Board has been a member of Smith & Wesson's Board
6 while the Company has, and continues to, manufacture, market, and sell AR-15 Rifles. Furthermore,
7 each member of the Demand Board has been on the Board while the Company faces pending
8 lawsuits in connection with its manufacturing, marketing, and selling of AR-15 Rifles in violation
9 of federal, state, and local laws.

10 175. Moreover, each member of the Demand Board has been a member of the Board while
11 the Company has, and continues to, face lawsuits regarding Smith & Wesson's manufacturing,
12 marketing, and selling of AR-15 Rifles that are used by the perpetrators of mass shootings, in
13 jurisdictions that ban individuals from purchasing, using, and/or possessing AR-15 Rifles,
14 preventing the protection from liability otherwise afforded to the Company under the PLCAA, and
15 exposing the Company to a substantial likelihood of liability.

16 176. Scott, who was on the Board when the Company entered into the 2000 Settlement
17 Agreement, faces additional risk, because he was not only aware of the Company's violation of
18 federal, state, and local law in connection with its manufacturing, marketing, and selling of AR-15
19 Rifles, but was serving on the Board at the time the Company reached a settlement with the federal
20 government requiring that it "[n]ot market any firearm in a way that would make the firearm
21 particularly appealing to juveniles or criminals."⁹³

22 177. Britt, Diaz, Monheit, Scott, Smith, and Suggs, who were on the Board when the
23 Committee investigated the Company's sale and marketing of AR-15 Rifles, and issued the
24 Committee Report detailing Smith & Wesson's continued marketing of AR-15 Rifles to juveniles
25 and/or criminals in violation of the 2000 Settlement Agreement and various state consumer
26 protection laws, were thus fully aware that the Company's practices were at risk of exposing Smith

27 ⁹³ 2000 Settlement Agreement (Mar. 17, 2000), available at
28 sec.gov/Archives/edgar/data/1092796/000095015301500879/p65473ex10-14.txt.

1 & Wesson to liability outside the protection of the PLCAA. However, despite being fully cognizant–
2 and explicitly warned–of the significant exposure to liability caused by the Company’s marketing
3 practices, the Director Defendants failed to act to ensure that Smith & Wesson would stay within
4 the boundaries of PLCAA protection.

5 178. Finally, Britt, Diaz, Lohmeier, Monheit, Scott, Smith, and Suggs, face a substantial
6 risk of liability for causing the Company to issue the 2024 Proxy with materially false and/or
7 misleading statements of fact in violation of Section 14(a) of the Exchange Act.

8 179. Thus, any lawsuit initiated to remedy the misconduct complained of herein would
9 expose all seven current Board members to significant personal liability for their bad faith breaches
10 of fiduciary duties and other misconduct.

11 180. For these willful failures, each member of the Demand Board faces a substantial
12 likelihood of personal liability, and cannot disinterestedly evaluate a litigation demand against them
13 for the same claims.

14 181. Accordingly, demand is futile, and thus, excused.

15 **II. LACK OF INDEPENDENCE AMONG DEMAND BOARD MEMBERS**

16 182. A majority of the Demand Board also has ties to the gun industry that prevent those
17 members of the Board–Smith, Scott, Lohmeier, and Monheit–from being capable of disinterestedly
18 evaluating a litigation demand.

19 183. Smith and Scott are, or have been, employed as executives for the Company and,
20 thus, cannot be considered independent members of the Board.

21 184. Lohmeier is also a director for ammunitions manufacturer Nammo Defense Systems
22 Inc., and, thus, cannot possibly escape her bias in connection with the gun industry position related
23 to the manufacture, marketing, and sale of AR-15 Rifles, such that she could disinterestedly evaluate
24 a litigation demand.

25 185. Monheit is a director for American Outdoor Brands, Inc., which was created from
26 the same company as Smith & Wesson, and is Vice Chairman for That’s Entertainment Corp., which
27 offers entertainment based on its virtual interactive shooting experience utilizing laser technology–
28

1 based replica firearms. Based on Monheit’s longstanding connection with the Company, and his
2 current position on the Board of a firearms-related company, he cannot possibly escape his bias in
3 connection with the gun industry position related to the manufacture, marketing, and sale of AR-15
4 Rifles, such that he could disinterestedly evaluate a litigation demand.

5 186. Smith, Scott, Lohmeier, and Monheit make up a majority of the Demand Board, and
6 cannot disinterestedly evaluate a litigation demand related to the Company’s manufacturing,
7 marketing, and sales of AR-15 Rifles.

8 187. Furthermore, as members of the Board when the Monitoring Report was issued,
9 Scott, Monheit, and Britt have already explicitly stated that a demand related to the Company’s
10 manufacturing, marketing, and sales of AR-15 Rifles would be futile, which offers the following
11 conclusion in connection with a stockholder-approved assessment of “corporate reputational and
12 financial risks related to gun violence in the U.S.”:

13 To summarize, [Smith & Wesson’s] reputation among firearm buyers and Second
14 Amendment supporters is more critical to the success of the Company and the
15 enhancement of shareholder value than its reputation among industry detractors and
16 special interest groups with a political agenda. In fact, efforts to improve the
17 Company’s reputation among its critics would not only be futile but would hurt the
18 Company’s business as it did 19 years ago.

19 188. Accordingly, as members of the Board that issued the Monitoring Report, Scott,
20 Monheit, and Britt cannot disinterestedly evaluate a litigation demand related to the Company’s
21 manufacturing, marketing, and sales of AR-15 Rifles.

22 189. Finally, in August 2023, each member of the Demand Board was on the Board when
23 it “unanimously recommend[ed]” voting against a stockholder proposal to conduct a third-party
24 Human Rights Impact assessment, based on their assertions that “it would require [the Company]
25 to reduce [its] lawful product offerings,” “gun control activists ... want to ban entire classes of
26 commonly-owned firearms,” and the proponents’ “absolutist views [are] inconsistent with
27 individuals’ fundamental [Second Amendment] right to provide for their own security.”⁹⁴

28 ⁹⁴ Smith & Wesson, *Schedule 14(A)* at 52-56 (Aug. 10, 2023), available at
<https://www.sec.gov/Archives/edgar/data/1092796/000095017023041366/swbi-20230810.htm>.

1 190. As no member of the Demand Board could reasonably be expected to consider a
2 litigation demand that they have already deemed to be inconsistent with rights under the U.S.
3 Constitution, they also cannot disinterestedly evaluate a litigation demand regarding the same
4 underlying issues (*i.e.*, the significant exposure to liability and violation of federal, state, and local
5 laws caused by Smith & Wesson’s manufacturing, marketing, and sales of AR-15 Rifles).

6 191. Accordingly, demand is futile, and thus, excused.

7 **CLAIMS FOR RELIEF**

8 **COUNT I**

9 ***Against the Director Defendants for Breach of Fiduciary Duty***

10 192. Plaintiffs incorporate by reference and reallege each and every allegation contained
11 above, as though fully set forth herein. The Director Defendants each owe Smith & Wesson and its
12 stockholders the highest fiduciary duties of loyalty, good faith, fair dealing, due care, and oversight
13 in managing and administering the Company’s affairs.

14 193. By reason of their fiduciary relationships, the Director Defendants specifically owed
15 and owe Smith & Wesson the highest obligation of good faith and loyalty in the administration of
16 the affairs of the Company, including, without limitation, the oversight of Smith & Wesson’s
17 compliance with federal, state, and local laws regarding the manufacturing, marketing, and sales of
18 AR-15 Rifles.

19 194. In addition, the Director Defendants owed and owe specific fiduciary duties as
20 defined by the Company’s corporate governance documents, including the charters of various Board
21 committees (including, but not limited to, those of the ESG Committee) that, had they been
22 discharged in accordance with the Director Defendants’ obligations, would have necessarily
23 prevented the Company from being exposed to the substantial likelihood of liability and the
24 consequent harm to the Company alleged herein.

25 195. The Director Defendants knowingly, intentionally, and fraudulently violated and
26 breached their fiduciary duties of good faith, fair dealing, loyalty, and due care by affirmatively and
27 repeatedly ignoring red flags related to the use of AR-15 Rifles by the perpetrators of mass shootings
28

1 in jurisdictions with laws that ban the purchase, ownership, and use of AR-15 Rifles, preventing the
2 application of the PLCAA, and exposing the Company to a significant likelihood of liability.

3 196. Moreover, the Director Defendants intentionally decided not to take any action
4 related to the same, notwithstanding knowledge of significant stockholder support for related
5 stockholder proposals.

6 197. By ignoring and/or disregarding the Company's stockholders' concerns, the Director
7 Defendants placed the interests of customers above those of the Company and its stockholders, acted
8 in bad faith, willfully, and/or recklessly in violating their fiduciary duties owed to the Company.

9 198. Similarly, the Director Defendants intentionally decided to cause or allow the
10 Company to issue the 2024 Proxy with materially false and/or misleading statements of fact in
11 violation of Section 14(a) of the Exchange Act.

12 199. As a direct and proximate result of the Director Defendants' conscious failure to
13 perform their fiduciary duties and exercise their oversight responsibility, Smith & Wesson has
14 sustained, and will continue to sustain, significant damages—both financially and to its corporate
15 image and goodwill. Such damages to Smith & Wesson caused by the Director Defendants include
16 and will include, substantial penalties, fines, damages awards, settlements, expenses, increased
17 regulatory scrutiny, reputational harm, and other liabilities described herein.

18 200. As a result of the misconduct alleged herein, the Director Defendants are liable to
19 the Company.

20 201. Plaintiffs, on behalf of Smith & Wesson, have no adequate remedy at law.

21 **COUNT II**

22 ***Against the Officer Defendants for Breach of Fiduciary Duty of Loyalty***

23 202. Plaintiffs incorporate by reference and reallege each and every allegation contained
24 above, as though fully set forth herein.

25 203. The Officer Defendants, as current and former officers of Smith & Wesson, all owed
26 and owe fiduciary duties to Smith & Wesson and its stockholders. By reason of their fiduciary
27 relationships, the Officer Defendants specifically owed and owe Smith & Wesson the highest
28 obligation of good faith and loyalty in the administration of the affairs of the Company, including,

1 without limitation, the oversight of the Company's compliance with federal, state, and local laws
2 regarding the manufacturing, marketing, and sales of AR-15 Rifles.

3 204. In addition, the Officer Defendants owed and owe specific fiduciary duties as defined
4 by the Company's corporate governance documents that, had they been discharged in accordance
5 with the Officer Defendants' obligations, would have necessarily prevented the misconduct and the
6 consequent harm to the Company alleged herein.

7 205. The Officer Defendants consciously breached their fiduciary duties and violated their
8 corporate responsibilities by affirmatively and repeatedly ignoring red flags related to the use of
9 AR-15 Rifles by the perpetrators of mass shootings in jurisdictions with laws that ban the purchase,
10 ownership, and use of AR-15 Rifles, preventing the application of the PLCAA, and exposing the
11 Company to a significant likelihood of liability.

12 206. Similarly, the Officer Defendants intentionally decided to cause or allow the
13 Company to issue the 2024 Proxy with materially false and/or misleading statements of fact in
14 violation of Section 14(a) of the Exchange Act.

15 207. As a direct and proximate result of the Officer Defendants' conscious failure to
16 perform their fiduciary duties and exercise their oversight responsibility, Smith & Wesson has
17 sustained, and will continue to sustain, significant damages—both financially and to its corporate
18 image and goodwill. Such damages to Smith & Wesson caused by the Officer Defendants include
19 and will include, substantial penalties, fines, damages awards, settlements, expenses, increased
20 regulatory scrutiny, reputational harm, and other liabilities described herein.

21 208. As a result of the misconduct alleged herein, the Officer Defendants are liable to the
22 Company.

23 209. Plaintiffs, on behalf of Smith & Wesson, have no adequate remedy at law.

24 **COUNT III**

25 ***Against the Officer Defendants for Breach of Fiduciary Duty of Care***

26 210. Plaintiffs incorporate by reference and reallege each and every allegation contained
27 above, as though fully set forth herein.

1 211. The Officer Defendants, as current and former officers of Smith & Wesson, all owed
2 and owe fiduciary duties to Smith & Wesson and its stockholders. By reason of their fiduciary
3 relationships, the Officer Defendants specifically owed and owe Smith & Wesson the highest
4 obligation of good faith and loyalty in the administration of the affairs of the Company, including,
5 without limitation, the oversight of the Company's compliance with federal, state, and local laws
6 regarding the manufacturing, marketing, and sales of AR-15 Rifles.

7 212. In addition, the Officer Defendants owed and owe specific fiduciary duties as defined
8 by the Company's corporate governance documents that, had they been discharged in accordance
9 with the Officer Defendants' obligations, would have necessarily prevented the misconduct and the
10 consequent harm to the Company alleged herein.

11 213. The Officer Defendants consciously breached their fiduciary duties and violated their
12 corporate responsibilities by affirmatively and repeatedly ignoring red flags related to the use of
13 AR-15 Rifles by the perpetrators of mass shootings in jurisdictions with laws that ban the purchase,
14 ownership, and use of AR-15 Rifles, preventing the application of the PLCAA, and exposing the
15 Company to a significant likelihood of liability.

16 214. Similarly, the Officer Defendants intentionally decided to cause or allow the
17 Company to issue the 2024 Proxy with materially false and/or misleading statements of fact in
18 violation of Section 14(a) of the Exchange Act.

19 215. As a direct and proximate result of the Officer Defendants' conscious failure to
20 perform their fiduciary duties and exercise their oversight responsibility, Smith & Wesson has
21 sustained, and will continue to sustain, significant damages—both financially and to its corporate
22 image and goodwill. Such damages to Smith & Wesson caused by the Officer Defendants include
23 and will include, substantial penalties, fines, damages awards, settlements, expenses, increased
24 regulatory scrutiny, reputational harm, and other liabilities described herein.

25 216. As a result of the misconduct alleged herein, the Officer Defendants are liable to the
26 Company.

27 ///

28

1 217. For these reasons, the Officer Defendants are liable to the Company for breaches of
2 fiduciary duty.

3 **COUNT IV**

4 ***Against the Director Defendants for Violations of***
5 ***Section 14(a) of the Exchange Act and SEC Rule 14a-9 Promulgated Thereunder***

6 218. Plaintiffs incorporate by reference and reallege each and every allegation contained
7 above, as though fully set forth herein.

8 219. Rule 14a-9, promulgated pursuant to Section 14(a) of the Exchange Act, provides
9 that no proxy statement shall contain “any statement which, at the time and in the light of the
10 circumstances under which it is made, is false or misleading with respect to any material fact, or
11 which omits to state any material fact necessary in order to make the statements therein not false or
12 misleading.”⁹⁵

13 220. Throughout their tenure on the Board, the Director Defendants have had control over
14 Smith & Wesson, and used that control to either negligently or knowingly cause the Company to
15 disseminate the false and misleading proxy statements described in the foregoing complaint, which
16 include: (i) the 2024 Proxy’s false statements about the Plaintiffs’, their State Court Action, and the
17 2024 Proposal; and (ii) falsely touting the Board’s oversight of material risks related to ESG matters
18 in proxy statements filed with the SEC since 2021, despite never considering such risks.

19 221. Thus, Smith & Wesson’s proxy statements violated Section 14(a) of the Exchange
20 Act and Rule 14a-9 by offering stockholders materially false and/or misleading statements in the
21 solicitation of their votes against the 2024 Proposal and with regard to the Board’s oversight of risk.

22 222. At all relevant times to the dissemination of the materially false and/or misleading
23 proxy statements, the Director Defendants were aware of, and/or had access to, the facts concerning
24 the Plaintiffs’, their State Court Action, the 2024 Proposal, and their failure of oversight of ESG-
25 related risks facing the Company.

26 ///

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28 _____
⁹⁵ 17 C.F.R. §240.14a-9.

1 223. The Company has been injured and is entitled to damages and equitable relief, in an
2 amount and nature to be demonstrated at trial as a result of the Director Defendants' material
3 misrepresentations in Smith & Wesson's proxy statements.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs, on behalf of Smith & Wesson, demand judgment as follows:

6 A. Determining that this action is a proper derivative action maintainable under the law
7 and that demand on the Smith & Wesson Board is excused as futile;

8 B. Finding the Director Defendants liable for breaching their fiduciary duties by
9 knowingly allowing Smith & Wesson to violate various federal, state, and local laws through its
10 manufacturing, marketing, and sales of AR-15 Rifles, preventing any protection from liability
11 otherwise afforded under the PLCAA;

12 C. Finding the Officer Defendants liable for breaching their fiduciary duties by
13 knowingly allowing Smith & Wesson to violate various federal, state, and local laws through its
14 manufacturing, marketing, and sales of AR-15 Rifles, preventing any protection from liability
15 otherwise afforded under the PLCAA;

16 D. Finding the Officer Defendants liable for breaching their fiduciary duties by
17 knowingly allowing Smith & Wesson to not comply with various federal, state, and local laws
18 through its manufacturing, marketing, and sales of AR-15 Rifles, preventing any protection from
19 liability otherwise afforded under the PLCAA;

20 E. Finding the Director Defendants liable for violating Section 14(a) of the Exchange
21 Act and Rule 14a-9 promulgated thereunder by causing Smith & Wesson to issue materially false
22 and misleading statements of fact in proxy statements about the Plaintiffs', their State Court Action,
23 the 2024 Proposal, and their failure of oversight of ESG-related risks facing the Company;

24 F. Directing Smith & Wesson to take all necessary actions to reform and improve its
25 compliance procedures and governance policies to comply with applicable laws and to protect Smith
26 & Wesson and its stockholders from a repeat of the damaging events described herein;

27 ///

28

1 G. Awarding to Smith & Wesson restitution from the Individual Defendants, and each
2 of them, and ordering disgorgement of all profits, benefits, and other compensation obtained by the
3 Individual Defendants;

4 H. Awarding to Plaintiffs the costs and disbursements of the action, including
5 reasonable attorneys' fees, accountants' consultants' and experts' fees, costs, and expenses; and

6 I. Granting such other and further relief as the Court deems just and proper.

7 Dated: February 4, 2025

MATTHEW L. SHARP, LTD.

/s/ Matthew L. Sharp

8
9
10 Matthew L. Sharp, Esq.
11 Nevada Bar No. 4746
12 432 Ridge Street
13 Reno, NV 89501
14 (775) 324-1500
15 matt@mattsharplaw.com

NEWMAN FERRARA LLP

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19 New York, NY 10001
20 (212) 619-5400
21 jnorton@nflfp.com
22 bbaker@nflfp.com

Counsel for Plaintiffs

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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ADRIAN DOMINICAN SISTERS, SISTERS
4 OF BON SECOURS USA, SISTERS OF ST.
5 FRANCIS OF PHILADELPHIA, and
6 SISTERS OF THE HOLY NAMES OF JESUS
7 & MARY, U.S.-ONTARIO PROVINCE,
8 derivatively on behalf of SMITH & WESSON
9 BRANDS, INC.,

10 Plaintiff,

11 v.

12 MARK P. SMITH, KEVIN A. MAXWELL,
13 SUSAN J. CUPERO, ROBERT L. SCOTT,
14 ANITA D. BRITT, FRED M. DIAZ,
15 MICHELLE J. LOHMEIER, BARRY M.
16 MONHEIT, and DENIS G. SUGGS,

17 Defendants.

18 -and-

19 SMITH & WESSON BRANDS, INC., a
20 Nevada Corporation,

21 Nominal Defendant.

No.:

**AFFIDAVIT AND
VERIFICATION**

22 STATE OF MICHIGAN)
23) ss.
24 COUNTY OF LENAWEЕ)

25 I, SISTER CORINNE SANDERS, being duly sworn, do hereby state as follows:

26 1. I am a Sister of the Adrian Dominican Sisters, a Plaintiff in the above-referenced
27 Action. I make this Affidavit and Verification pursuant to Fed. R. Civ. P. 23.1(b) in connection
28 with the filing of a Verified Stockholder Derivative Complaint for Breach of Fiduciary Duty (the
"Complaint");

2. The Adrian Dominican Sisters currently hold shares of Smith & Wesson Brands,
Inc. and have held such shares continuously during all relevant times alleged in the Complaint.

3. I have reviewed the Complaint and consulted with counsel.

1 4. The facts alleged in the Complaint, as they concern my own acts and deeds, are true
2 to my personal knowledge. I believe the facts pleaded in the Complaint on information and belief
3 or investigation of counsel are true.

4 5. Neither I nor the Adrian Dominican Sisters have received, been promised, or
5 offered, and will not accept any form of compensation, directly or indirectly, for prosecuting or
6 serving as a representative party in this action except (i) such fees, costs, or other payments as the
7 Court expressly approves to be paid to the Adrian Dominican Sisters on the Adrian Dominican
8 Sisters' behalf; or (ii) reimbursement, paid by the Adrian Dominican Sisters' attorneys, of actual
9 and reasonable out-of-pocket expenses incurred by me directly in connection with prosecution of
10 this action.

11 I make this Affidavit and Verification under penalty of perjury that the foregoing is true and
12 correct.

13 Executed this 21 day of January, 2025.

14 

15 SISTER CORINNE SANDERS

16
17 SWORN TO AND SUBSCRIBED
18 before me this 21 day of January, 2025.

19 

20 Notary Public

21 

22 My Commission Expires

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ADRIAN DOMINICAN SISTERS, SISTERS
OF BON SECOURS USA, SISTERS OF ST.
FRANCIS OF PHILADELPHIA, and
SISTERS OF THE HOLY NAMES OF JESUS
& MARY, U.S.-ONTARIO PROVINCE,
derivatively on behalf of SMITH & WESSON
BRANDS, INC.,

Plaintiff,

v.

MARK P. SMITH, KEVIN A. MAXWELL,
SUSAN J. CUPERO, ROBERT L. SCOTT,
ANITA D. BRITT, FRED M. DIAZ,
MICHELLE J. LOHMEIER, BARRY M.
MONHEIT, and DENIS G. SUGGS,

Defendants.

-and-

SMITH & WESSON BRANDS, INC., a
Nevada Corporation,

Nominal Defendant.

No.:

AFFIDAVIT AND
VERIFICATION

STATE OF MARYLAND)
) ss.
COUNTY OF HOWARD)

I, SISTER ELAINE DAVIA, being duly sworn, do hereby state as follows:

1. I am a Sister of the Sisters of Bon Secours USA, a Plaintiff in the above-referenced Action. I make this Affidavit and Verification pursuant to Fed. R. Civ. P. 23.1(b) in connection with the filing of a Verified Stockholder Derivative Complaint for Breach of Fiduciary Duty (the "Complaint");

2. The Sisters of Bon Secours USA currently hold shares of Smith & Wesson Brands, Inc. and have held such shares continuously during all relevant times alleged in the Complaint.

3. I have reviewed the Complaint and consulted with counsel.

1 4. The facts alleged in the Complaint, as they concern my own acts and deeds, are true
2 to my personal knowledge. I believe the facts pleaded in the Complaint on information and belief
3 or investigation of counsel are true.

4 5. Neither I nor the Sisters of Bon Secours USA have received, been promised, or
5 offered, and will not accept any form of compensation, directly or indirectly, for prosecuting or
6 serving as a representative party in this action except (i) such fees, costs, or other payments as the
7 Court expressly approves to be paid to the Sisters of Bon Secours USA on the Sisters of Bon
8 Secours USA's behalf; or (ii) reimbursement, paid by the Sisters of Bon Secours USA's attorneys,
9 of actual and reasonable out-of-pocket expenses incurred by me directly in connection with
10 prosecution of this action.

11 I make this Affidavit and Verification under penalty of perjury that the foregoing is true and
12 correct.

13 Executed this 16 day of Jan., 2025.

14 
15 _____
16 SISTER ELAINE DAVIA

17 SWORN TO AND SUBSCRIBED
18 before me this 16 day of Jan., 2025.

19 

20 Notary Public
DEBRA M PETTUS
Notary Public - State of Maryland
Anne Arundel County
My Commission Expires May 11, 2026
21 My Commission Expires

1 3. I have reviewed the Complaint and consulted with counsel.

2 4. The facts alleged in the Complaint, as they concern my own acts and deeds, are true
3 to my personal knowledge. I believe the facts pleaded in the Complaint on information and belief
4 or investigation of counsel are true.

5 5. Neither I nor the Sisters of St. Francis of Philadelphia have received, been
6 promised, or offered, and will not accept any form of compensation, directly or indirectly, for
7 prosecuting or serving as a representative party in this action except (i) such fees, costs, or other
8 payments as the Court expressly approves to be paid to the Sisters of St. Francis of Philadelphia
9 on the Sisters of St. Francis of Philadelphia's behalf; or (ii) reimbursement, paid by the Sisters of
10 St. Francis of Philadelphia's attorneys, of actual and reasonable out-of-pocket expenses incurred
11 by me directly in connection with prosecution of this action.

12 I make this Affidavit and Verification under penalty of perjury that the foregoing is true and
13 correct.

14 Executed this 10 day of January, 2025.

15 
16 _____
17 TOM MCCANEY

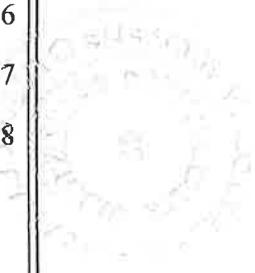
18 SWORN TO AND SUBSCRIBED
19 before me this 10th day of January, 2025.

20 
21 _____
22 Notary Public

23 _____
24 My Commission Expires

25

Commonwealth of Pennsylvania - Notary Seal SUSANNA V MONTELEONE - Notary Public Delaware County My Commission Expires December 8, 2026 Commission Number 1259480
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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ADRIAN DOMINICAN SISTERS, SISTERS
OF BON SECOURS USA, SISTERS OF ST.
FRANCIS OF PHILADELPHIA, and
SISTERS OF THE HOLY NAMES OF JESUS
& MARY, U.S.-ONTARIO PROVINCE,
derivatively on behalf of SMITH & WESSON
BRANDS, INC.,

Plaintiff,

v.

MARK P. SMITH, KEVIN A. MAXWELL,
SUSAN J. CUPERO, ROBERT L. SCOTT,
ANITA D. BRITT, FRED M. DIAZ,
MICHELLE J. LOHMEIER, BARRY M.
MONHEIT, and DENIS G. SUGGS,

Defendants.

-and-

SMITH & WESSON BRANDS, INC., a
Nevada Corporation,

Nominal Defendant.

No.:

**AFFIDAVIT AND
VERIFICATION**

STATE OF OREGON)
) ss.
COUNTY OF CLACKAMAS)

I, SISTER MARY SLATER, being duly sworn, do hereby state as follows:

1. I am a Sister of the Sisters of the Holy Names of Jesus & Mary, U.S.-Ontario Province, a Plaintiff in the above-referenced Action. I make this Affidavit and Verification pursuant to Fed. R. Civ. P. 23.1(b) in connection with the filing of a Verified Stockholder Derivative Complaint for Breach of Fiduciary Duty (the "Complaint");

2. The Sisters of the Holy Names of Jesus & Mary, U.S.-Ontario Province currently hold shares of Smith & Wesson Brands, Inc. and have held such shares continuously during all relevant times alleged in the Complaint.

1 3. I have reviewed the Complaint and consulted with counsel.

2 4. The facts alleged in the Complaint, as they concern my own acts and deeds, are true
3 to my personal knowledge. I believe the facts pleaded in the Complaint on information and belief
4 or investigation of counsel are true.

5 5. Neither I nor the Sisters of the Holy Names of Jesus & Mary, U.S.-Ontario Province
6 have received, been promised, or offered, and will not accept any form of compensation, directly
7 or indirectly, for prosecuting or serving as a representative party in this action except (i) such fees,
8 costs, or other payments as the Court expressly approves to be paid to Sisters of the Holy Names
9 of Jesus & Mary, U.S.-Ontario Province on Sisters of the Holy Names of Jesus & Mary, U.S.-
10 Ontario Province's behalf; or (ii) reimbursement, paid by the Sisters of the Holy Names of Jesus
11 & Mary, U.S.-Ontario Province's attorneys, of actual and reasonable out-of-pocket expenses
12 incurred by me directly in connection with prosecution of this action.

13 I make this Affidavit and Verification under penalty of perjury that the foregoing is true and
14 correct.

15 Executed this 24 day of January, 2025.

16
17 Sister Mary Slater
18 SISTER MARY SLATER

19 SWORN TO AND SUBSCRIBED
20 before me this 24th day of January, 2025.

21 Kathryn F Test
22 Notary Public

23 July 31, 2027
My Commission Expires

