

FBT -CV 15-60481 03-S

DONNA L. SOTO, ADMINISTRATRIX OF THE
ESTATE OF VICTORIA L. SOTO et al.

Plaintiffs,

v.

BUSHMASTER FIREARMS INTERNATIONAL,
LLC, et al.

Defendants.

SUPERIOR COURT

JUDICIAL DISTRICT OF
FAIRFIELD

AT BRIDGEPORT

APRIL 19, 2016

Defendants Riverview Sales, Inc. and David LaGuercia's
Motion to Stay Discovery

The Defendants in the above-referenced matter, Defendants Riverview Sales, Inc. and David LaGuercia (Riverview Defendants), respectfully move, pursuant to Practice Book Section 13-5, for a stay of discovery until this Court determines whether Plaintiffs' claims are barred by the Protection of Lawful Commerce in Arms Act, 15 U.S.C. §§ 7901 et seq. ("PLCAA"). In support of this Motion, Riverview Defendants represent as follows:

1. Riverview Defendants filed a Motion to Dismiss Plaintiffs' claims pursuant to the PLCAA on December 11, 2015.
2. On April 14, 2016, this Court (Bellis, P.J.) issued a decision denying Defendants' Motions to Dismiss on the basis that immunity pursuant to the PLCAA should be raised pursuant to a motion to strike pursuant to Practice Book Section 10-39. Order Apr. 14, 2016 at 14.

3. Riverview Defendants intend to file a motion to strike Plaintiffs' claims pursuant to the PLCAA by April 22, 2016.

4. The PLCAA provides firearms sellers, such as Riverview Defendants, with statutory immunity from suit, by prohibiting the filing of a "civil action ... brought by any person against a ... seller of a [firearm] ... for damages, punitive damages, injunctive or declaratory relief, or penalties or other relief resulting from the criminal or unlawful misuse of a [firearm] by ... a third party" in any state or federal court, unless one or more narrow exceptions apply. 15 U.S.C. §§ 7902(a) & 7903(5)(A).

5. "[S]tatutory immunity involves immunity from suit and is intended to permit courts expeditiously to weed out suits which fail the test without requiring a defendant who rightfully claims qualified immunity to engage in expensive and time consuming preparation to defend the suit on its merits." *Kelly v. Albertsen*, 970 A.2d 787, 790 (Conn. App. Ct. 2009). *See also Manifold v. Ragaglia*, 891 A.2d 106, 122 (Conn. App. Ct. 2006) (holding that statutory immunity protects a defendant from having to even defend against a lawsuit, not just from liability).

6. Practice Book Section 13-5 provides in relevant part as follows:

Upon motion by a party from whom discovery is sought, and for good cause shown, the judicial authority may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters

7. This Court is authorized to stay discovery pursuant to Practice Book Section 13-5. *Wilcox v. Webster Ins.*, No. CV075010093S, 2008 WL 253054, at *1-*2 (Conn. Super. Ct. Jan. 11, 2008); *Ritchie v. Nyjix, Inc.*, No. FSTCV064009324S, 2007 WL 806240, at * 1 (Conn. Super. Ct. Feb. 22, 2007).

8. The arguments that will be raised in support of Riverview Defendants' motion to strike Plaintiffs' claims against them pursuant to the PLCAA will be based on the allegations in the First Amended Complaint and will be accepted as true for purposes of that motion. There is accordingly no need for Plaintiffs to conduct any discovery in order to address the issue of whether the PLCAA provides Riverview Defendants with immunity from Plaintiffs' claims.

9. Discovery should not proceed until the issue of whether Riverview Defendants are entitled to statutory immunity from Plaintiffs' claims pursuant to the PLCAA has been resolved by this Court. In the more than ten years since the PLCAA was first enacted, Riverview Defendants are aware of no court that has allowed a plaintiff to proceed with general discovery before determining whether defendant was entitled to immunity pursuant to the PLCAA based on the allegations raised in the operative complaint.

WHEREFORE, Riverview Defendants respectfully move to stay discovery until this Court has determined whether they have statutory immunity from Plaintiffs' claims pursuant to the PLCAA.

Respectfully submitted,

THE DEFENDANTS,

RIVERVIEW SALES, INC. AND
DAVID LAGUERCIA

BY: /s/ Peter M. Berry 417451

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DONNA L. SOTO, ADMINISTRATRIX)	SUPERIOR COURT
OF THE ESTATE OF VICTORIA L.)	
SOTO, DECEASED, ET AL.)	J.D. OF FAIRFIELD/BRIDGEPORT
v.)	AT BRIDGEPORT
BUSHMASTER FIREARMS)	
INTERNATIONAL, LLC, ET AL.)	APRIL 18, 2016

Order

The foregoing motion having been considered, it is hereby

- Granted
- Denied

By the Court

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Judge/Asst. Clerk Date

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was mailed and e-mailed on April 19,

2016 to the following counsel of record:

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