



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nora Frimann,
City Attorney

SUBJECT: AMICUS CURIAE BRIEF IN CITY
OF CHICAGO v. WESTFORTH
SPORTS, INC

DATE: March 1, 2024

RECOMMENDATION

Ratify authorizing the City Attorney to join an Amicus Curiae brief for submission to the First Judicial District in the Appellate Court of Illinois in *City of Chicago v. Westforth Sports, Inc.*, Case No. I-23-1908, supporting the plaintiff-appellant's arguments to reverse the Illinois trial court's dismissal holding that it does not have jurisdiction over an Indiana federal firearms licensee that has sold hundreds of straw-purchased guns used to commit crimes in Chicago. The brief is to be submitted on behalf of the Giffords Law Center to Prevent Gun Violence, the Brady Center to Prevent Gun Violence, and cities participating as Amicus Curiae.

BACKGROUND

An opportunity arose for the City of San Jose to join the Giffords Law Center and the Brady Center, as well as some other cities, on an amicus brief being drafted by the Proskauer Rose LLP law firm in support of the City of Chicago in its lawsuit filed against Westforth Sports, Inc. ("Westforth"). Westforth is a federally licensed firearm dealer doing business in the State of Indiana. The City of Chicago has alleged that Westforth failed to follow federal protocols to stop illegal sales of firearms pursuant to the Gun Control Act of 1968. Specifically, the lawsuit alleges that Westforth failed to meet its legal obligations and the industry standard of care in preventing "straw purchases" of firearms, that is, sales for which the weapons were actually purchased for someone else, often a person prohibited from owning a firearm.

ANALYSIS

Straw purchasing is illegal under Federal law and California law. In 2021, the San Jose City Council adopted an ordinance regulating the retail sale, lease and transfer of firearms and firearm ammunition in the City of San Jose. That ordinance contains a provision for training employees of firearms dealers in the City to question and

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determine whether each potential customer, who is not a peace officer, is attempting to buy a firearm for another person. (SJMC section 6.90.370) The fact that an Indiana based business is not complying with federal law and industry practices is alleged to have led to an increase in firearms and firearm-related crime and violence in the City of Chicago. San Jose has a similar interest in ensuring that out of state licensed firearms dealers are complying with federal law and preventing straw purchases.

PUBLIC OUTREACH

This memorandum will be posted on the City's website as part of the March 5, 2024 City Council Agenda.

CEQA:

Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment.

NORA FRIMANN
City Attorney

By /s/ Nora Frimann
NORA FRIMANN
City Attorney

For questions, please contact Nora Frimann, City Attorney, at (408) 535-1900.

cc: Jennifer Maguire, City Manager