

No. 14-3091

IN THE
United States Court of Appeals
FOR THE SEVENTH CIRCUIT

ARIE S. FRIEDMAN, *et al.*,

Plaintiffs-Appellants,

against

CITY OF HIGHLAND PARK,

Defendant-Appellee.

*On Appeal from the United States District Court
for the Northern District of Illinois
No. 1:13-cv-09073
Honorable John W. Darrah*

**MOTION FOR LEAVE TO FILE BRIEF ON BEHALF OF
ARMALITE, INC., COLT MANUFACTURING COMPANY
LLC, REMINGTON ARMS COMPANY, LLC, SIG SAUER,
INC., SMITH & WESSON CORP., STAG ARMS, STURM,
RUGER & CO., INC., AND THE NATIONAL SHOOTING
SPORTS FOUNDATION, INC. AS *AMICI CURIAE*
IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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Proposed *Amici Curiae* ArmaLite, Inc., Colt Manufacturing Company LLC, Remington Arms Company, LLC, SIG SAUER, Inc., Smith & Wesson Corp., Stag Arms, Sturm, Ruger & Co., Inc., and the National Shooting Sports Foundation, Inc. (collectively, “*Amici*”), through their undersigned counsel and pursuant to Fed. R. App. P. 29(b), hereby move this Court for leave to file an *amicus curiae* brief in support of Plaintiffs-Appellants’ position in this appeal. *Amici* have unique information that will be helpful to this Court and that the lawyers for the parties are not able to provide in similar detail. *Amici* have interest in a number of other cases pending before other courts involving challenges to similar bans that may be affected by the Court’s decision in this appeal. *Ryan v. Commodity Futures Trading Commission*, 125 F.3d 1062, 1063 (1997). In support of this motion, *Amici* state as follows:

1. *Amicus Curiae* ArmaLite, Inc. (“Armalite”), is a manufacturer of firearms that are currently banned by Highland Park, Ill., City Code § 136.005(1) (the “Ordinance”). Located in Geneseo, Illinois, ArmaLite was originally founded in 1954. Under the guidance of Chief Engineer Eugene Stoner, ArmaLite invented and developed the original AR-15 (the “AR,” still used today, stands for “ArmaLite”) during the late 1950s and early 1960s. ArmaLite continues to manufacture AR-platform rifles for sale to the civilian market.

2. *Amicus Curiae* Colt Manufacturing Company LLC (“Colt”) is a Connecticut-based manufacturer of firearms banned by the Ordinance. Colt traces its origins to Samuel Colt’s 1836 patent for a handgun that incorporated a revolving cylinder. Samuel Colt’s revolver led to Colt’s status as one of the nation’s most venerated firearms manufacturers, a reputation that is maintained today not only in Colt’s continued manufacture of some of the finest handguns in the world, but also in its manufacture of high-quality AR-platform rifles. Colt, whose parent company is the owner of the trademark “AR-15,” has manufactured AR-platform rifles for the civilian market since 1964.

3. *Amicus Curiae* Remington Arms Company, LLC (“Remington”), is part of the Remington Outdoor Company. The Remington Outdoor Company (“ROC”), headquartered in Madison, N.C., designs products for the hunting, shooting, self-defense, military, and law enforcement markets. Founded in 1816, ROC is the nation’s oldest gun maker and one of the largest domestic producers of firearms and ammunition. ROC employs over 3,500 people and distributes its products throughout the U.S. and over 55 countries. ROC includes globally recognized brands such as Remington®, Remington 1816®, Bushmaster®, DPMS®, Marlin®, H&R®, Mountain Khakis®, Advanced Armament Corp.®, Dakota®, Nesika®, Storm Lake® and Barnes® Bullets.

4. *Amicus Curiae* SIG SAUER, Inc. (“SIG SAUER”), headquartered in Newington, New Hampshire, is a manufacturer of world-class sporting and defensive firearms, including firearms banned by the Ordinance. Since making its first rifle in 1870, SIG SAUER has had a rich history of producing, among other firearms, high quality Modern Sporting Rifles which are either AR-platform rifles or proprietary designs. SIG SAUER’s mission is to be a reliable, long-term partner to its customers, recognized for the quality and value of its products and the reliability of its commitments.

5. *Amicus Curiae* Smith & Wesson Corp. (“Smith & Wesson”), located in Springfield, Massachusetts, was founded in 1852 by Horace Smith and Daniel B. Wesson. Smith & Wesson developed the first successful fully self-contained cartridge revolver available in the world. Later, in 1899, Smith & Wesson introduced one of its most famous and popular revolvers, the .38 Military & Police, also known as the Model 10, which is still produced today. Smith & Wesson remains a leader in firearm manufacturing and design, delivering a broad portfolio of quality firearms, including Modern Sporting Rifles banned by the Ordinance, to the civilian market. It is impossible to understand the history of modern firearms without understanding the history of Smith & Wesson.

6. *Amicus Curiae* Stag Arms (“Stag Arms”), located in New Britain, Connecticut, is a leading manufacturer of firearms banned by the Ordinance. Stag

Arms was founded in 2003 with the express goal to manufacture reliable, American-made, competitively priced AR-platform rifles. Since its founding, and due to the increasing popularity of Modern Sporting Rifles in the civilian population, Stag Arms has become one of the largest manufacturers of firearms in the United States. Stag Arms' product line development is entirely responsive to customer demand and feedback, giving Stag Arms the highest customer satisfaction rate in the industry.

7. *Amicus Curiae* Sturm, Ruger & Co., Inc. ("Ruger"), founded in Southport, Connecticut, in 1949, is one of the nation's leading manufacturers of rugged, reliable firearms for the commercial sporting market, including firearms banned by the Ordinance. A full-line manufacturer of American-made firearms, Ruger offers consumers over 400 variations of more than 30 product lines. For more than 60 years, Ruger has been a model of corporate and community responsibility. Its motto, "Arms Makers for Responsible Citizens," exemplifies Ruger's commitment to safe and responsible use of firearms by law-abiding citizens as Ruger works to deliver quality and innovative firearms.

8. *Amicus Curiae* National Shooting Sports Foundation, Inc. ("NSSF"), is the national trade association for the firearms, ammunition, and hunting and shooting sports industry. It is a non-profit, tax-exempt corporation that is comprised of over 10,000 federally-licensed firearms manufacturers, distributors,

and retailers. Its members manufacture firearms that are prohibited by the Ordinance. Its members have unique knowledge of the history and utility of the firearm features outlawed by the Ordinance and can provide the Court with an accurate history of the civilian use of each of the features. This information is vital to the Court's understanding of the usefulness of the features of the banned firearms for home defense, as well as other lawful uses.

9. *Amici* are in a unique position to provide information to this Court that is necessary for the resolution of the issues on appeal, and which is unlikely to be covered in similar depth by any of the parties. Because *Amici* have manufactured for decades firearms now banned by Highland Park, they are capable of providing this Court with a detailed history of the firearms at issue and the lawful civilian purposes for which these firearms are used. Furthermore, as the challenged Ordinance expressly bans firearms merely based upon their having certain enumerated features,¹ the parties and this Court will benefit from *Amici's*

¹ Highland Park prohibits the possession, transfer, and manufacture of a semiautomatic rifle that has the capacity to accept a [magazine with a capacity greater than 10] and one or more of the following: (a) Only a pistol grip without a stock attached; (b) Any feature capable of functioning as a protruding grip that can be held by the non-trigger hand; (c) A folding, telescoping, or thumbhole stock; (d) A shroud attached to the barrel, or that partially or completely encircles the barrel, allowing the bearer to hold the Firearm with the non-trigger hand without being burned, but excluding a slide that encloses the barrel; or (e) A Muzzle Brake or Muzzle Compensator.

explanations of what the features are, and what the features are designed to do. *Amici* in their proposed Brief will provide this Court with a straightforward, exhaustive, and helpful description of these features, and believe that such a discussion will assist not only the Court, but also the parties. *Amici* believe the Court's access to the perspective of *Amici* who actually make the firearms Highland Park seeks to ban will advance the interests of justice in this case.

10. *Amici* manufacture or represent the manufacturers of many of the firearms banned by the City of Highland Park. *Amici* sell these firearms throughout the country. Other states and localities have enacted similar bans of *Amici's* firearms. Litigation challenging a number of those similar bans on *Amici's* firearms is pending in various stages of resolution in a number of other courts. This Court's resolution of the issues in this appeal may well impact the course and outcome of litigation challenging those other bans that will affect *Amici's* interests in distributing their firearms in those other states and localities.

11. Counsel for the Plaintiffs-Appellants have consented to the filing of the attached Brief. Counsel for *Amici* timely contacted counsel for Defendant-Appellee Highland Park to request consent. Highland Park has withheld consent,

Highland Park, Ill., City Code § 136.001(C)(1).

but has not stated a reason for its withholding consent, or whether it will oppose this Motion.

12. For the foregoing reasons, *Amici* respectfully request that their Motion for Leave to File as *Amici Curiae* be granted. A copy of the proposed *Amici Curiae* Brief is attached as Exhibit A.

Respectfully submitted,

/s/ John Parker Sweeney

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of November, 2014, the foregoing Motion for Leave to Appear as *Amici Curiae* and the proposed Brief were served, via electronic delivery, to all counsel via the Court's CM/ECF system which will forward copies to Counsel of Record.

/s/ John Parker Sweeney
Of Counsel