

The Star-Ledger

N.J. asks judge to force gun manufacturer Smith & Wesson to hand over documents on how it markets firearms

By Blake Nelson

NJ Advance Media for NJ.com and The Star-Ledger

Published Feb. 18, 2020

New Jersey is asking a judge to force Smith & Wesson Brands Inc. to hand over internal documents, the latest twist in an ongoing legal fight over how the gun manufacturer advertises to residents.

The state first demanded marketing information in October. The Massachusetts-based company sued soon after, arguing that it wasn't obligated to provide anything.

The gun manufacturer "claims that it is above the law — that it can deceive consumers and potential consumers of its products without consequence," the state attorney general's office wrote in court documents filed Friday.

The state's subpoena was lawful and a court should enforce it, a deputy attorney general wrote.

A spokesman for New Jersey Attorney General Gurbir Grewal declined comment. Smith & Wesson representatives did not respond to a request for comment, nor did they comment on their lawsuit earlier.

The subpoena came after Grewal's office asked outside lawyers to help investigate how gun companies promote their products.

Smith & Wesson said in its lawsuit that this all amounted to an "unconstitutional fishing expedition" designed to weaken the Second Amendment.

Grewal's office pushed back, saying last week that state law allowed them to dig into anyone advertising within New Jersey.

The review was not about "the product Smith & Wesson sells, but the representations and omissions in its marketing and advertising," state officials argued in court documents, and the investigation has shown that some ads "may misrepresent the impact owning a firearm has on personal safety."

Some Smith & Wesson ads also promoted carrying concealed firearms without mentioning that New Jerseyans needed a permit to conceal carry, state officials wrote.

Grewal's office asked that Smith & Wesson be held in contempt of court for ignoring the subpoena.

The state has some of the toughest gun laws in the nation, and New Jersey has previously gone after outside groups that overstepped local laws.

The State Police also track what types of weapons are used in crimes, and Smith & Wesson guns have topped recent lists, according to state data.

Some reports listed “SMITH & WESSON OR SWAZILAND” as the top manufacturer linked to gun crimes. A State Police spokesman said the inclusion of the word “Swaziland” was a computer error, and the newest report from November listed only “Smith & Wesson” as the top manufacturer.

In September 2019, the state brought on the New York-based firm Lovell Stewart Halebian Jacobson, LLP to support litigation and an investigation “Regarding Gun Manufacturers’ Deceptive or Misleading Advertising,” according to a retention agreement obtained by NJ Advance Media through a public records request.

Grewal’s office declined to provide more details about the firm’s potential fee, arguing that it was allowed to withhold information that could reveal “legal strategy” or “privileged material,” a records custodian wrote.

However, there were no invoices to report as of Jan. 12, Grewal’s office added.

Smith & Wesson’s previous lawsuit is ongoing, according to federal court records. Friday’s brief was filed in New Jersey Superior Court in Essex County.