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Smith & Wesson must give N.J. internal documents on how it markets guns, courts rule

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New Jersey's top law enforcement official is renewing a demand for Smith & Wesson Brands Inc. to turn over internal documents on how it markets guns after courts ruled against the manufacturer.

The state's request for information has drawn national attention, especially since gun companies are often shielded from liability in the United States.

"Today's decision confirms what we have said from the beginning of the case: no industry is free to evade compliance with New Jersey's consumer protection laws," acting Attorney General Andrew Bruck said in a statement.

The company did not immediately react to the decisions and has not responded to previous requests for comment, but in earlier court filings the manufacturer said New Jersey was trying to weaken the 2nd Amendment.

"Following in the abusive footsteps of ... repressive regimes, the New Jersey Attorney General has taken a series of actions to suppress Smith & Wesson's speech" in order to hurt the company "both financially and reputationally," Smith & Wesson wrote.

New Jersey's attorney general subpoenaed Smith & Wesson late last year. The company sued to block the demand, but U.S. District Judge Julien Neals threw out that lawsuit in August.

New Jersey filed its own lawsuit earlier this year to enforce the subpoena. Superior Court Judge Jodi Lee Alper ruled the state could legally demand more details about how the company promotes its products, according to court records.

On Monday, the state Supreme Court declined to protect the company further.

Former state Attorney General Gurbir Grewal has publicly described the fight with Smith & Wesson as a way to get around a federal law that largely shields gun companies from being sued.

"When I say that we need to be creative, this past fall I subpoenaed Smith & Wesson for documents relating to what I believe is their false advertising in New Jersey," Grewal said early June during a virtual roundtable hosted by March for Our Lives, a Florida-based nonprofit that advocates for stricter gun laws.

The company ran local commercials that claimed “gun use would make people safer” without providing evidence or acknowledging New Jersey laws that limit where guns can be carried, Grewal said.

Getting access to Smith & Wesson’s internal documents was a way “to hold manufacturers liable,” he said.

A columnist for The New York Times called the court battle “the most important gun lawsuit you’ve never heard of” and said the subpoena was really a “Trojan horse to expose publicly, for the first time, the inner workings of the gun industry.”

In an interview earlier this year, Grewal declined to respond to that interpretation or to elaborate on the Smith & Wesson complaint, saying only in general that “we are using all of our levers to address the issue of gun violence.”

“Our playbook is treating gun violence as a public health crisis,” he added.

The roots of New Jersey’s strategy go back years.

Months after Grewal took office, in August 2018, New Jersey announced it was looking for outside lawyers to help with “firearm safety” lawsuits.

The request provided few specifics but asked for attorneys with experience “reducing or seeking damages for the impacts of firearm violence,” according to state records.

Firms would only be paid if they made New Jersey money. For example, if they sued a company that was later fined by a court, lawyers could get part of that fine. (In attorney speak, they’d receive a “contingency fee percentage of the dollars recovered.”)

At least three firms were eventually approved. Two had not been hired as of March, according to a records custodian in response to a public records request.

The office has also pursued dozens of indictments against people accused of selling or possessing illegal guns, invested in violence intervention programs and pressured the federal government to increase regulation, while the State Police also tracks the origins of seized weapons.