

IN THE SUPREME COURT OF TEXAS

No. 19-0637

IN RE ACADEMY, LTD. D/B/A ACADEMY SPORTS + OUTDOORS, RELATOR

ON PETITION FOR WRIT OF MANDAMUS

PER CURIAM

This mandamus proceeding, like the proceeding we resolve today in *In re Academy, Ltd.*, ___ S.W.3d ___ (Tex. June 25, 2021) (No. 19-0497), arises out of the 2017 Sutherland Springs church shooting. The underlying suits in both 19-0497 and this case were brought by victims of the shooting and their families against Academy, the retailer from which the perpetrator purchased the firearm used in the shooting.¹ In substance, the petitions are all very similar: they allege that the sale of the firearm violated federal law—the Gun Control Act—and assert causes of action for negligence; gross negligence; negligent hiring, training, and supervision; and negligent entrustment. Academy generally denies the allegations and asserts that the suits are barred by the federal Protection of Lawful Commerce in Arms Act (PLCAA). *See* 15 U.S.C. §§ 7902(a) (“A qualified civil liability action may not be brought in any Federal or State court.”), 7903(5)(A) (defining “qualified civil liability action,” with exceptions, as “a civil action or proceeding . . . brought by any person against a manufacturer or seller of a qualified product . . . for damages . . . or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party”), 7903(4) (defining “qualified product” as “a

¹ The mandamus petition in 19-0497 encompasses four lawsuits that were consolidated for pretrial matters.

firearm . . . or ammunition . . . or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce”).

In 19-0497, we hold that the trial court abused its discretion in denying Academy’s motion for summary judgment because the PLCAA bars those suits as a matter of law and Academy lacks an adequate remedy by appeal. ___ S.W.3d at ___. Here, Academy complains of the trial court’s order in the underlying suit granting the plaintiffs’ motion to compel Academy to respond to discovery.² Academy contends that the order was an abuse of discretion, in part because the PLCAA forecloses the suit.³ The court of appeals denied Academy’s petition for writ of mandamus.

We believe the trial court should have the opportunity to reconsider its order in light of our opinion in 19-0497. Accordingly, we deny Academy’s petition for writ of mandamus without prejudice to give the trial court that opportunity.

OPINION DELIVERED: June 25, 2021

² Academy also complains of the trial court’s denial of Academy’s motion to stay the underlying proceedings pending the outcome of 19-0497. We previously granted Academy’s motion for emergency temporary relief, staying discovery in the underlying suit.

³ Academy alternatively asserts that the trial court erred in requiring it to respond to the discovery requests without an adequate protective order in place.