



# New Brief Punches Holes in Mexico's Lawsuit Against U.S. Gun Makers

[The brief](#) filed by the National Rifle Association (NRA), the FPC Action Foundation (Firearms Policy Coalition), and David Kopel of the Independence Institute last week obliterates Mexico's allegations that behaviors of American gun makers are the cause of the excessive gun violence in Mexico.

## Mexico's Claim

Kopel made it clear what the Mexican government's true intentions are in bringing the lawsuit:

Mexico seeks to bankrupt the American firearms industry by making American firearms manufacturers liable for violence perpetrated by Mexican drug cartels in Mexico — despite failing to allege that the manufacturers violated any law, were aware of any unlawful sale, or took any affirmative act intended to further a crime.

If Mexico can overcome a motion to dismiss on such a weak foundation, the proliferation of meritless Mexico-style cases could destroy the firearms industry solely through litigation costs.



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The lawsuit, originally launched against nearly a dozen American manufacturers in 2021 but specifically targeting Smith & Wesson, seeks \$10 billion in damages and “injunctive relief” by asking the court to install bans on semiautomatic rifles like the popular AR-15, broadening background checks further, and prohibiting the sale of magazines containing more than 10 rounds of ammunition. If successful, Mexico would essentially override the Constitution's requirement that the lawmaking powers are granted exclusively to the legislative branch of the U.S. Government.

The suit constitutes not only lawfare — seeking to injure, perhaps fatally, the financial well-being of American gun makers — but also usurpation of those lawmaking powers by the courts.

## Cartel Weapons From Around the World

Kopel obliterates Mexico's claim that most — between 80 and 90 percent of — firearms used in gun



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violence come from the United States. That number is spurious and fraudulent, according to Kopel:

Of the total crime guns seized in Mexico, only a small fraction conclusively come from the U.S. And the average age of those firearms is 15 years, indicating that many were stolen from their lawful owners before becoming crime guns.

He shows that the Mexican cartels obtain their weapons from around the world, not just from America, writing:

Mexico's black market has been called a "virtual arms bazaar, with fragmentation grenades [coming] from South Korea, AK-47s [coming] from China, and shoulder-fired rocket launchers [coming] from Spain, Israel, and former Soviet bloc manufacturers."

Guatemala and Colombia also provide weaponry used in Mexico's gun violence.

### **Mexico's Government to Blame**

And the Mexican government itself is responsible for much of the violence, according to Kopel. He quotes one of his sources:

"The violence Mexico faces today is the cumulative effect of the state's clear failures," including "the state's incapacity and unwillingness to prevent, investigate, prosecute, and punish criminal conduct."

He further quotes from the [2022 report](#) on Mexico from the U.S. Bureau of Democracy, Human Rights, and Labor, which accuses the Mexican government of

[U]nlawful or arbitrary killings by police, military, and other governmental officials; forced disappearance by government agents; torture or cruel, inhuman, degrading treatment or punishment by security forces; harsh and life-threatening prison conditions; arbitrary arrest or detention; restrictions on free expression and media, including violence against journalists; [and] serious acts of government corruption.

Kopel concluded: "The First Circuit's decision should be reversed."

### **Circuit Court's Decision**

It was the 1st Circuit Court of Appeals decision to revive the Mexican government's lawsuit that has led to the flurry of briefs to the Supreme Court supporting a reversal. Populated by anti-gun, anti-Second Amendment judges, the 1st Circuit found what it believed was a crack in the shield protecting the American gun industry from such otherwise frivolous and expensive lawsuits.

It was the 1st Circuit that used a "Rube Goldberg" chain of guilt from maker to Mexico, declaring that chain to provide sufficient evidence that the American gun makers were guilty of aiding in Mexico's outrageous crime wave.

As exposed by [the brief](#) filed in support of Smith & Wesson last April by the Firearms Policy Coalition, here are the *eight steps* in that chain of guilt:

1. The defendants sell firearms to independent federally licensed wholesale distributors.



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2. Those distributors then sell those firearms to independent federally licensed retail dealers.
3. A subset of those retail dealers then sell the firearms to individuals who have illegal intentions.
4. Those individuals or their associates then illegally sell some of those firearms to smugglers, or themselves smuggle the firearms across the Mexican border.
5. Cartel members in Mexico then buy or otherwise obtain the smuggled firearms.
6. Cartel members then unlawfully use the firearms in violent attacks in Mexico.
7. Those attacks injure people and property in Mexico.
8. The Mexican government suffers some derivative fiscal harms addressing the injuries inflicted and attempting to combat similar cartel violence.

Kopel claims that this chain of causation is just too thin to be believed, much less relied upon for the 1st Circuit's decision overruling a lower court's proper ruling that the American gun industry is protected by the PLCAA, the "Protection of Lawful Commerce in Arms Act," passed by Congress in 2005.

The Supreme Court is scheduled to consider on Friday which of many cases it will take under advisement in its next term, with decisions rendered in June 2025.

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