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WIEDNER & MCAULIFFE, LTD.  
ATTORNEYS AT LAW

## **WIEDNER & MCAULIFFE, LTD. PREVAILS IN LANDMARK PRODUCT LIABILITY DECISION IN THE ILLINOIS SUPREME COURT**

Senior partner, Richard J. Leamy, Jr., acted as lead counsel before the Illinois Supreme Court on behalf of distributors and wholesalers of firearms who were sued by the City of Chicago and Cook County under a novel legal theory, seeking to impose liability on both manufacturers and distributors of handguns used in crimes in the City of Chicago.

On November 18, 2004, the Illinois Supreme Court dismissed the claims of the City of Chicago and Cook County against all defendants, including the wholesalers represented by this firm. Mr. Leamy argued successfully that since the firearm distributors operated under Federal, State and Local regulation and only sold their products in accordance with Federal licensing guidelines, they could not be held liable for the subsequent criminal misuse of their products by unknown third persons.

In a lengthy opinion authored by Justice Garman, the Illinois Supreme Court agreed and refused to expand Illinois tort law to impose liability on commercial entities which sell lawful non-defective products which are then subsequently misused, warning that there are “an endless list” of manufacturers, distributors and retailers of manufactured products which could potentially be mis-used. The court specifically held that “public nuisance” may not be a basis for product liability, and that the intervening criminal acts prevented the conduct of the defendants from being the legal cause of damages.

Mr. Leamy also successfully defended wholesaler defendants in a lawsuit brought by the NAACP and tried to a not guilty verdict after a five week trial in Federal Court in New York last year involving the same legal issues. National Association for the Advancement of Colored People and National Spinal Cord Injury Association v. Acusport Corporation, et al., Docket No. 99 CIV 7037 (JBW).

The full text of the decision may be found at the City of Chicago, et al., Appellees v. Beretta U.S.A. Corporation, et al., Appellants.

<http://www.state.il.us/court/Opinions/SupremeCourt/2004/November/Opinions/Html/93678.htm>.

**Frank J. Wiedner, Editor**