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GUN REFORM BY “ANY MEANS NECESSARY”

INTRODUCTION

In 2005, Congress passed the Protection of Lawful Commerce in Arms Act (“PLCAA”), shielding gun manufacturers¹ from liability whenever the misuse² of a firearm³ causes harm.⁴

PLCAA is important for two reasons: (1) it provides gun manufacturers and distributors blanket immunity for gun violence and, in doing so; (2) it hinders the natural product reform process. This essay will discuss how PLCAA has interrupted the natural product reform process and how stakeholders who desire tougher gun control can use their resources as a means of advocacy. The natural product reform process is the process by which products are improved and/or refined through the affects of the consumer market, technology, innovation, and law suits.

I. BLANKET IMMUNITY FROM LIABILITY PROVIDES A FREE PASS TO GUN MANUFACTURERS

The immunity under PLCAA provides a free pass to gun manufacturers from any liability for gun violence.⁵ PLCAA states that “[a] qualified civil liability action may not be brought in any Federal or State court.”⁶ A “qualified civil liability action” is a civil action or administrative proceeding brought by

any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or

¹ Essentially, liability is also precluded for the gun industry as a whole including distributors, dealers, and importers. Protection of Lawful Commerce in Arms Act, 15 U.S.C. § 7901 (2012).

² Misuse, a term of art within products liability, refers to a product being mishandled or put to an abnormal or unforeseeable use. It is a common defense. RESTATEMENT (THIRD) OF TORTS PROD. LIAB. § 17 (1998).

³ In this paper, whenever I refer to firearms or gun, the term is intended to include ammunition. If a plaintiff could not go after the gun manufacturer or the gun manufacturer may not have been the cause of the issue, a plaintiff could sue the seller of the ammunition. *See* Hetherton v. Sears Roebuck Co., 593 F.2d 526 (3rd Cir. 1979).

⁴ 15 U.S.C. § 7901.

⁵ Because the PLCAA requires State and Federal courts to dismiss any civil action or administrative proceeding, no form of liability for criminal gun violence can ever attach to a gun manufacturer because the means of doing so have been taken away. *See* 15 U.S.C. § 7902.

⁶ 15 U.S.C. § 7902.

declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party”⁷

The term “qualified product” means a firearm, including antique firearms, ammunition, or any component part of a firearm or ammunition.⁸ Thus, PLCAA precludes liability to gun manufacturers whenever a gun is used in a criminal act and harms another person. In addition, retroactive effect of PLCAA has been affirmed by courts as comporting with the notions of due process.⁹

In 2009, *City of New York v. Beretta U.S.A. Corp.*, a case BROUGHT by the City of New York against gun manufacturers and dealers was decided after nine years.¹⁰ The United States Supreme Court denied *certiorari* after the Second Circuit ordered the case to be dismissed under PLCAA.¹¹ In the case, the City of New York accused gun manufacturers of violating the state’s nuisance law by putting its products in illicit markets which created a condition that negatively affected the public health and safety.¹² The court held that New York’s nuisance statute was not an applicable exception to maintain a suit against a gun manufacturer under PLCAA.¹³

To be clear, PLCAA does not prohibit claimants from filing all causes of action against a gun manufacturer.¹⁴ PLCAA specifically proscribes those claims relating to criminal gun violence.¹⁵ Therefore, if a company manufactured a gun that automatically fired when held in a certain position, the injured person could sue the maker of the gun for design defect, manufacturing defect, breach of expressed/implied warranty, or a failure to warn. However, if a person robbed a bank and purposefully shot a customer in the bank, the

⁷ 15 U.S.C. § 7903(5).

⁸ 15 U.S.C. § 7903(4).

⁹ *Ileto v. Glock, Inc.*, 563 F.3d 1126, 1140–42 (9th Cir. 2009) (PLCAA does not impose a procedural limitation; rather, it creates a substantive rule of law granting immunity to certain parties against certain types of claims. In such a case, “the legislative determination provides all the process that is due.”).

¹⁰ *City of New York v. Beretta U.S.A. Corp.*, 524 F.3d 384 (2nd Cir. 2008), cert. denied 556 U.S. 1104 (2009).

¹¹ *Id.*

¹² David Stout, *Justices Decline New York Gun Suit*, NY TIMES, (Mar. 9, 2009), http://www.nytimes.com/2009/03/10/washington/10guns.html?_r=0.

¹³ *City of New York*, 524 F.3d at 400.

¹⁴ A qualified civil liability action does not include negligent entrustment, negligence per se, a claim for the violation of state or Federal statute regarding sale or marketing, breach of contract or warranty, and defect in design or manufacture. 15 U.S.C. § 7903(5).

¹⁵ *Id.*

injured customer could not sue the manufacturer of the gun the robber used to commit the crime. PLCAA prohibits the sort of claims that would arise in the latter scenario.

Some opponents of stricter gun control laws might use a common slogan associated with the National Rifle Association and argue that “guns don’t kill people, people kill people.”¹⁶ This notion suggests that guns require human interaction to harm others and that a gun cannot harm a person by itself. Proponents of gun reform, however, claim that while “guns may not kill people . . . people with guns do, and they do so more often and more efficiently than people without guns.”¹⁷ Essentially this counterargument and others like it, claims that guns enable people to kill people.

Both of these rhetorical arguments wrestle with the issue of whether gun manufacturers should be liable when a third party uses its product in a manner unintended to commit a crime. However, this paper will not debate whether gun manufacturers should or should not be liable for gun violence under PLCAA. It will simply serve to highlight that blanket immunity for gun violence under PLCAA hinders the natural product reform process and bring to the forefront a possible new form of advocacy for gun reform.

II. PLCAA INTERFERES WITH THE NATURAL PRODUCT REFORM PROCESS

Manufactured goods evolve over time due not only to improved technology and innovative ideas, but also, products liability lawsuits.¹⁸ Products liability litigation is a means to ensure that a company is held responsible when it is negligent.¹⁹ When a product is faulty or when a company cuts too many corners in making its product, the company may be held liable to harmed

¹⁶ Robert Deis, *Some People Say “Guns don’t kill people.” Other People Say . . .*, QUOTECOUNTERQUOTE, (Jan. 18, 2013), <http://www.quotecounterquote.com/2011/03/guns-dont-kill-people-people-kill.html>.

¹⁷ *Debunking The “Guns Don’t Kill People, People Kill People” Myth*, ARMEDWITHREASON, (Oct. 8, 2013), <http://www.armedwithreason.com/debunking-the-guns-dont-kill-people-people-kill-people-myth/>.

¹⁸ See *Delaney v. Deere & Co.*, 999 P.2d 930 (Kan. 2000); *Freeman v. Hoffman-LaRoche*, 618 N.W.2d 827 (Neb. 2000); *Denny v. Ford Motor Co.*, 79 F.3d 12 (2nd Cir. 1996); *Gurski v. Wyeth*, 953 F.Supp. 412 (D. Ma. 1997). See also John Villasenor, *Products Liability and Driverless Cars: Issues and Guiding Principles for Legislations*, 2014 CENTER FOR TECH. & INNOVATION AT BROOKINGS 14 (discussing that potential manufacturer liability may delay or hamper the commercial use of driverless cars) available at http://www.brookings.edu/~media/research/files/papers/2014/04/products%20liability%20driverless%20cars%20villasenor/products_liability_and_driverless_cars.pdf.

¹⁹ *Villasenor*, at 7.

consumers.²⁰ Through products liability, the defective product is brought to the attention of the manufacturing company.²¹ Products liability causes of action give consumers an outlet to vocalize their claims and invoke their legal right to safe products.²² By protecting gun companies from this form of liability for gun violence, Congress silenced the consumers' voice and their rights.²³ The removal of products liability as an available cause of action to consumers helps to eliminate or substantially reduce gun manufacturers' financial liability to consumers for gun violence.²⁴

This reduction of financial liability hampers gun reform. If a company is subjected to burdensome litigation over a product it produces, the company will have a tremendous incentive to fix the issue or try to alleviate the problem as best as it can to avoid facing such litigation. Therefore, a company, through this process, will take proactive measures to constantly modify or improve its products (even if there is nothing "wrong") to safeguard against potential litigation. In fact, in products liability litigation, evidence of a later change in design cannot be used against a company to prove negligence of defective design.²⁵ As a policy matter, society does not want companies to refrain from making beneficial changes to products in fear that the change will be used against them in court.

To be sure, the natural reform process is not perfect. If a company sold a dangerous product and was still able to make a profit off of the product, then at the end of the day it was advantageous for the company to manufacture the dangerous product. The imperfectness of the reform system is perhaps best illustrated by a car manufactured in the 1970s with a major defect, the Ford Pinto.²⁶ In manufacturing the infamous Ford Pinto, Ford Motor Company knowingly produced a vehicle that was susceptible to gas tank rupture upon

²⁰ *Id.*

²¹ Hugh Jum Bissell, *Rolling Back Legal Immunity for the Gun Industry*, DAILY KOS, (Jan. 14, 2013), <http://www.dailykos.com/story/2013/01/14/1178835/-Rolling-Back-Legal-Immunity-for-the-Gun-Industry#>.

²² "Often, the threat of lawsuits alone provide a powerful financial incentive to an industry to make its products safer, and reduce the risks associated with the use of their products." *Id.*

²³ *See id.* ("Until the passage of the PLCAA, no entire industry got such broad amnesty on the whole litigation process: neither automobile makers nor the pharmaceutical industry enjoys such protections, two industries that are common subjects of consumer liability suits.")

²⁴ *See id.* ("The NRA has stated that the PLCAA is 'vitaly important' to end efforts by gun control groups to 'bankrupt the American firearms industry through reckless lawsuits.'")

²⁵ Fed. R. Evid. 407. However, evidence of a later change in design can be used to prove feasibility of a reasonable alternative design. *Id.*

²⁶ Mark Dowie, *Pinto Madness*, MOTHER JONES (Oct. 1977), <http://www.motherjones.com/politics/1977/09/pinto-madness?page=1>.

impact, resulting in potential injuries or death for its passengers.²⁷ Ford was exposed to hundreds of lawsuits related to the Pinto and subsequently paid out millions of dollars in damages.²⁸

The Ford Pinto was designed according to a 2000/2000 rule in which the car was not to weigh over 2000 pounds and cost the consumer no more than \$2,000.²⁹ Cost-benefit analysis showed that it was cheaper to pay out all of the anticipated personal injury claims rather than recall the Pinto.³⁰ A recall would have cost Ford \$137 million.³¹ It was \$11 per car to change the gas tank multiplied by 12.5 million, the number of Pintos Ford estimated it would manufacture.³² Ford estimated that the total liability from consumer claims would reach only \$49.5 million.³³ Ford also estimated that 180 deaths would occur as a result of the Pinto's defect,³⁴ with each life being valued at a compensatory value of \$200,000.³⁵ Ultimately, Ford estimated that it would save \$87.5 million by not recalling existing Pintos and fixing future Pintos.

For Ford, it was simply more advantageous for it to make a dangerous product, at least from a financial perspective. So it did. But products liability did play an important role in this case. Eventually, Ford stopped manufacturing the Pinto after 1980. Ford recalled the Pinto on June 9, 1978,³⁶ four months after receiving a devastating jury verdict in a suit alleging a defect in the Pinto. In *Grimshaw v. Ford Motor Co.*,³⁷ after a six-month jury trial, the jury returned a verdict in favor of the plaintiff for punitive damages in the amount of \$125

²⁷ *Id.*

²⁸ W. Michael Hoffman, *The Ford Pinto*, in CASE STUDIES IN BUSINESS ETHICS 222, 226 (5th ed. 2004).

²⁹ Dowie, *supra* note 28.

³⁰ *Id.*

³¹ *Id.*

³² Wendi Lewis, *Ford Memo: The Smoking Gun*, FIGHTING INJUSTICE (May 5, 2009), <http://www.rightinginjustice.com/news/2009/05/05/ford-memo-the-smoking-gun/>.

³³ *Id.*

³⁴ The cost-benefit analysis also included amounts for burn victims who were seriously injured (\$67,000) and amounts for those that had minor injuries (\$700). *Id.*

³⁵ Ford's estimate of the value of human life not only put a numerical value on life but also contributed to Ford knowingly putting people in substantial risk of serious bodily injury or death. Christopher Leggett, *The Ford Pinto Case: The Valuation of Life as it Applies to the Negligence-Efficiency Argument*, 1999 LAW & VALUATION AT WAKE FOREST U., ("Ford is essence adopted a policy of allowing a certain number of people to die or be injured even though they could have prevented it. When taken on a case-by-case basis the decision seems to be a blatant disregard for human life.") *available at* <https://users.wfu.edu/palmitar/Law&Valuation/Papers/1999/Leggett-pinto.html>.

³⁶ National Highway Traffic Safety Administration (NHTSA), http://www-odi.nhtsa.dot.gov/recalls/results.cfm?start=1&SearchType=DrillDown&type=VEHICLE&year=1975&make=FORD&model=PINTO&component_id=0&TYPENUM=1&summary=true.

³⁷ *Grimshaw v. Ford Motor Co.*, 119 Cal. App. 3d 757 (Cal. Ct. App. 1981).

million.³⁸ Fortunately for Ford, that amount was substantially reduced to \$3.5 million on remittitur by the trial judge.³⁹ The amount of punitive damages was upheld on appeal in 1981.⁴⁰ Nonetheless, this amount exponentially surpassed Ford's calculations of \$200,000 per death. Ultimately, Ford may have had to stop manufacturing the Pinto in order to save its public image and the company from potential bankruptcy.⁴¹ Here, the natural reform process, including products liability, adversely affected Ford financially enough for it to pull the defective product off the market before the company could face further potentially devastating liability.⁴²

It is clear that products liability is an aspect of the market. By removing the risk of products liability litigation and insulating gun manufacturers from liability, Congress has not only limited market effect but also the natural reform process. Because gun manufacturers are precluded from this type of natural reform process by the PLCAA, it is up to society as a whole to advocate the reforms it wants in place or seek repeal of the PLCAA. One major driving force for reform of product designs can be Stakeholder Advocacy.

III. THE NEWTOWN CONNECTION TO STAKEHOLDER ADVOCACY

The Newtown school shooting presents an example of how stakeholder advocacy may work. On the morning of December 14, 2012, a tragic school shooting occurred at Sandy Hook Elementary in Newtown, Connecticut.⁴³ The gunman, Adam Lanza, arrived at the school with three guns, a semi-automatic AR-15 assault rifle made by Bushmaster, and pistols made by Glock and Sig

³⁸ *Id.* at 771.

³⁹ *Id.* at 823. The judge found that the award for \$125 million in punitive damages was excessive given that it was \$122 million more than the compensatory damages and also 44 times compensatory damages. *Id.* at 822.

⁴⁰ *Id.* at 757.

⁴¹ See Auto Editors of Consumer Guide, *1971–1980 Ford Pinto, HOW STUFF WORKS*, <http://auto.howstuffworks.com/1971-1980-ford-pinto12.htm> (last visited Dec. 18, 2013) (citing LEE IACocca & SONNY KLEINFELD, *TALKING STRAIGHT* (1989)) (“Clamming up is what we did at Ford in the late ‘70s when we were bombarded with suits over the Pinto, which was involved in a lot of gas tank fires. The suits might have bankrupted the company, so we kept our mouths shut for fear of saying anything that just one jury might have construed as an admission of guilt. Winning in court was our top priority; nothing else mattered. And of course, our silence added to all the suspicions people had about us and the car.”).

⁴² *But cf.* Gary T. Schwartz, *The Myth of the Ford Pinto Case*, 43 RUTGERS L. REV. 1013 (1991) (discussing that the numbers in the Ford Pinto Memo do not actually represent Ford's tort liability but the liability of automotive industry as a whole).

⁴³ *Sandy Hook shooting: What happened?*, CNN, (last visited Dec. 18, 2013), <http://www.cnn.com/interactive/2012/12/us/sandy-hook-timeline/>.

Sauer.⁴⁴ Lanza broke into a classroom and used the semi-automatic rifle to kill a teacher and all fourteen kindergarten students in the room.⁴⁵ After this, Lanza made his way into another classroom and killed another teacher and six more kindergarten students.⁴⁶ The death toll ultimately amounted to twenty-six people, twenty elementary school students and six adults.⁴⁷

Consequently, neither the survivors of Sandy Hook nor the relatives of those killed can file a claim of action against the manufacturer of the semi-automatic gun, Bushmaster. Why? The PLCCA prohibits it. The PLCAA requires both state and federal courts to dismiss any qualified civil liability claim (including criminal actions) for misuse.⁴⁸ Although products liability may be a closed door for the families affected by Sandy Hook, there is an alternative avenue available for them to seek justice. This alternative avenue is gun control advocacy driven by stakeholders.

This form of advocacy is what enticed Cerebus Capital Management (“Cerebus”) to put Freedom Group up for sale. Cerebus is a private equity and hedge fund owned by billionaire “buyout king” Stephen A. Feinburg.⁴⁹ Mr. Feinburg “acquire[s] undervalued companies, often with borrowed money, fix[es] them up and either take[s] them public or sell[s] [them] at a profit to someone else.”⁵⁰ Cerebus owns the gun manufacturer, Freedom Group.⁵¹ Freedom Group is the maker of the .223 Bushmaster semi-automatic rifle that was used in the massacre at Sandy Hook Elementary School.⁵² After a telephone call with the California State Teachers’ Retirement System (“Calstrs”), Cerebus announced it planned to sell Freedom Group.⁵³ Calstrs

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ The term ‘qualified’ refers to a claim brought by any person against a manufacturer arising from criminal or unlawful misuse except claims relating to . . . (2) negligent entrustment or negligence per se, (3) seller or manufacturer violation of state or federal statute concerning sale or marketing, (4) breach of contract or warranty regarding sale of product (5) design defect or manufacture defect. . . 15 U.S.C. § 7902 (2012).

⁴⁹ Peter Lattman, *In an Unusual Move, Cerebus to Sell Gun Company*, DEAL BOOK (Dec. 18, 2012, 5:54 AM), <http://dealbook.nytimes.com/2012/12/18/cerberus-to-sell-gunmaker-freedom-group/>.

⁵⁰ Natasha Singer, *How Freedom Group Became the Big Shot*, DEAL BOOK (Nov. 26, 2011), http://www.nytimes.com/2011/11/27/business/how-freedom-group-became-the-gun-industrys-giant.html?pagewanted=1&_r=0.

⁵¹ Andrew R. Sorkin, *Wall Street, Invested in Firearms, Is Unlikely to Push for Reforms*, DEAL BOOK (Dec. 20, 2012, 5:24 AM), <http://dealbook.nytimes.com/2012/12/17/wall-street-invested-in-firearms-is-unlikely-to-push-for-reform/>.

⁵² *Id.*

⁵³ See Lattman, *supra* note 53.

raised concerns to Cerebus in the telephone call about the company's ownership of Freedom Group.⁵⁴ Calstrs, a public pension fund, has \$750 million invested in Cerebus and is one of Cerebus' most influential investors.⁵⁵

Even though Cerebus putting Freedom Group up for sale is not exactly gun reform, it does not have to be. The sale of Cerebus illustrates the power that people in a group can have to effect larger change. In the future, instead of putting up a gun manufacturer like Freedom Group for sale, stakeholders can make demands because the gun manufacturer will want the stakeholders to remain invested with its company. Those demands can be based on gun reform.

IV. STAKEHOLDER ADVOCACY

Although Cerebus' action to put Freedom Group up for sale appears to be a "rare" action, it was fostered by a large investor with the power to persuade. Private companies, as stated by former New York Governor Elliot Spitzer,⁵⁶ are immune to public demand but not pressure put on by its own investors.⁵⁷ Mr. Spitzer goes on to state that "Every student at a university should ask the university if it is invested in Cerberus. Every member of a union should ask their pension-fund managers if they are invested. Information is the key first step. From there, action will quickly follow."⁵⁸ This sort of inquiry represents the kinds of pressure society can place on investors. However, mere questioning is not sufficient. And while knowledge is always a first step, action is the necessary step. To be effective, people must, after acquiring knowledge, be able to advocate by demanding withdrawal or reform.

Why is stakeholder advocacy needed? Though Ford Pinto may be an extreme example, the idea of cost-benefit analysis used to determine design (including safety) features is a hallmark for business.⁵⁹ American companies are known for their "M.O.E." nature.⁶⁰ The term M.O.E. is vernacular for the phrase "money over everything," which is used in hip-hop culture to represent

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Mr. Spitzer is also a past New York State Attorney General. *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ This statement does not mean that a business should not conduct a cost-benefit analysis, in fact, it may be necessary to ensure a profitable business. However the cost-benefit analysis can be a double-edged sword.

⁶⁰ See Lattman, *supra* note 53 (stating that Wall Street firms usual adhere to a 'profit-at-all-costs ethos.');

Dowie, supra note 28 ("The process of willfully trading lives for profits is built into corporate capitalism.").

an attitude that places a high priority on money as being more important than anything else, including people.⁶¹ Both a company and its executives can and do have notorious reputations. Corporate executives are often typecast as carnivorous, stealthy creatures like the wolf,⁶² and some companies have been known to utilize questionable practices such as the use of sweatshops.⁶³

Profit is *the* main initiative of any company. When producing a harmful product becomes more detrimental for a company than it can afford, then and only then, will the company take a serious look into reforming its practices. Because the interests of a company and the interests of consumers can be at odds, products liability suits provide consumers a channel through which they can voice their grievances. But PLCAA has taken away this channel for victims of gun violence, thereby affecting natural product reform.

Since PLCAA declares product liability suits as invalid causes of action, part of the system of natural product reform is not available to the victims of gun violence.⁶⁴ Because it is not available, if society wants changes it must find a new way to advocate on behalf of gun reform. One new possible avenue is to advocate change through stakeholders. Stakeholders would have to organize and demand reform. Stakeholders can advocate for tougher gun laws, like extensive background checks, a waiting period, banning certain guns from civilian ownership, and even ask that manufacturers invest in innovative technology to produce some sort of “smart gun.”⁶⁵ Stakeholders could also demand gun companies to invest in the development of creative safety precautions and the transferability of available technology such as fingerprint analysis, GPS tracking, automatic shut off or voice recognition to guns.⁶⁶ Another idea could be the creation of a fund in which all gun manufacturers are required to donate a portion of their annual profits and that is dedicated to those affected by gun violence.

⁶¹ See DRAKE, HEADLINES (Cash Money 2011).

⁶² See Charles V. Bagli, *A New Breed of Wolf At the Corporate Door*, N.Y. TIMES, Mar. 19, 1997, at D1.

⁶³ See WALTER LAFEVER, MICHAEL JORDAN AND THE NEW GLOBAL CAPITALISM 153–55 (expanded ed. 2002).

⁶⁴ As mentioned earlier PLCAA protects gun manufacturers from liability for criminal gun use, *supra* note 1. Thus what I have deemed the natural product reform process, the susceptibility to market including claims for product liability, is hindered.

⁶⁵ Eugene Volokh, “*Smart Guns*”, WASHINGTON POST, (May 22, 2014), (“[P]ersonalized guns that couldn’t be fired by anyone who isn’t authorized to use them.”) <http://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/05/22/smart-guns-2/>.

⁶⁶ Some of these ideas may take many years to develop and become economically feasible or may not be feasible at all, but the important thing is beginning the process of the change society seeks.

Even if stakeholders are unsure or indecisive of the demands they wish to seek, simply apprising gun companies that they oppose the current state of gun violence and mandate the companies do more to make sure its guns do not fall into the wrong hands could be beneficial. These demands may require that they are perceived as ultimatums to the gun companies in order to have sufficient leverage. Thus if the demands are not reasonably met, the stakeholders must be willing to take away their financial support similar to social justice movements of the past.⁶⁷ Stakeholders have the potential to play a critical role, especially through those investment firms that have large investments with gun manufacturers.

TIFFANY TAYLOR*

⁶⁷ For example, during the Civil Rights era in Montgomery, Alabama Blacks protested riding segregated buses through bus boycotts. *Montgomery Bus Boycott*, HISTORY.COM, <http://www.history.com/topics/black-history/montgomery-bus-boycott> (last visited Aug. 1, 2014). Blacks comprised about 75% of the bus ridership. *Id.* The boycott lasted 381 days until the United States Supreme Court upheld a lower court decision that determined that racially segregated buses violated the 14th Amendment. *Id.* The city faced staggering financial losses due to the boycott. *The Montgomery Bus Boycott*, THENATION.COM, (Aug. 31, 2010), <http://www.thenation.com/learning-pack/montgomery-bus-boycott>. The city could have negotiated with the leaders of the boycott, but the Mayor tried to intimidate the boycotters by raising cab fare and making carpooling illegal. *Id.*

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