



Written by [Bob Adelman](#) on November 13, 2019

Sandy Hook Lawsuit Against Remington Sent Back to State Court

When Connecticut's Supreme Court overturned a lower court's ruling last March that Remington Arms was protected from a lawsuit by families of victims of the Sandy Hook shooting, Remington appealed to the U.S. Supreme Court. Without comment, the Supreme Court on Tuesday [turned back the appeal](#) that allows the lawsuit against Remington to proceed.

The essence of the case against Remington is this: The company is accused of violating Connecticut's fair trade laws by deceptively marketing its Bushmaster semi-automatic rifle. The company's ads touted the rifle's looks and expressed its benefits in ways that the families considered deceptive. That's important because one of the exceptions to the federal law protecting arms manufacturers from such lawsuits — the Protection of Lawful Commerce in Arms Act, or PLCAA — is that victims are allowed to sue if a manufacturer “knowingly violated a state or federal statute applicable to the sale or marketing” of a firearm.

Attorneys for the plaintiffs claimed that Remington's Bushmaster semi-automatic rifle — the one Adam Lanza stole from his mother Nancy (before murdering her) and used to murder 20 children and six teachers at Sandy Hook Elementary School in 2012 — was “designed as a military weapon” and “engineered to deliver maximum carnage” with great efficiency.

They argued that Remington touted the rifle's military appearance as a marketing strategy, including an ad showing a large picture of the rifle along with the text: “Forces of opposition, Bow down. The only rifle you need to master the infinite number of extreme scenarios you'll face in the worlds of law enforcement and personal defense.” The ad called the rifle the “ultimate military combat weapons system,” adding that “It's tested and proven reliable in the most brutal conditions on earth, truly ambidextrous and the uncompromising choice when you demand a rifle as mission-adaptable as you are.”

Another ad touted the rifle's masculinity: “Consider your man card reissued.”

The attorneys chimed that somehow these influenced Adam Lanza to use the Bushmaster in his killing spree — that he was “encouraged” by those ads to use it to commit his atrocity at Sandy Hook. In its ruling last March that overturned the lower court, the state's Supreme Court obliquely agreed: “If the





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defendants' marketing materials did in fact inspire or intensify the massacre, then there are no more direct victims than these plaintiffs."

Chief Justice Richard Robinson spoke for the Connecticut court's majority:

If the defendants did indeed seek to expand the market for their assault [sic] weapons through advertising campaigns that encouraged consumers to use the weapons not for legal purposes such as self-defense, hunting, collecting, or target practice, but to launch offensive assaults against their perceived enemies, then we are aware of nothing in the text or legislative history of PLCAA to indicate that Congress intended to shield the defendants from liability for the tragedy that resulted.

The task the plaintiffs' attorneys will now undertake to bring down Remington — and by inference open the door to similar lawsuits against gun makers across the land — is monumental. They must first prove to the jury's satisfaction that Remington "knowingly" violated Connecticut's unfair trade practices law. Then they must show that the company's ads were deceptive. Third, they must show that those ads influenced Adam Lanza's mother, Nancy Lanza, to purchase the Bushmaster for herself (which she did, legally, in 2010).

This could end the quest to punish Remington all by itself. If defendants allow the jury to hear testimony from Nancy Lanza's sister-in-law, Marsha Lanza, the case against Remington could be over. Marsha Lanza told WBBM-TV, CBS 2 Chicago that her sister owned a number of firearms "for self-defense and no other reason, because they were not a violent family."

If that isn't sufficient to protect Remington, then plaintiffs' attorneys will then have to show just how Nancy somehow succumbed to Remington's ads touting their masculinity in her decision to purchase the Bushmaster for herself. If that doesn't work, they will then have to prove somehow that Adam chose the Bushmaster from his mother's collection because of those ads. Unfortunately for the plaintiffs' attorneys, neither Adam nor his mother Nancy will be able to testify, leaving the matter in the hands of the jury.

So there's the mountain the plaintiffs' attorneys will have to climb to indict Remington: Is the exception to the federal law PLCAA applicable to this case? Did Remington "knowingly" violate Connecticut's Unfair Trade Practices Act? If so, did the company's ads mislead Nancy Lanza into purchasing the Bushmaster back in 2010? And did they also somehow influence Adam Lanza to select the Bushmaster as the weapon of choice for the massacre of innocents at Sandy Hook?

This case is far from over. Following discovery, the final decision will rest in the hands of the jury.

An Ivy League graduate and former investment advisor, Bob is a regular contributor to The New American, writing primarily on economics and politics. He can be reached at badelman@thenewamerican.com.

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