



Written by [Raven Clabough](#) on April 15, 2016

## Judge Refuses to Dismiss Sandy Hook Case Against Gun Maker

On Thursday, Superior Court Judge Barbara Bellis ruled that the families of the Sandy Hook victims could move forward in their lawsuit against the maker of the rifle used in the tragic shooting that took place in Newtown, Connecticut, on December 14, 2012. The judge's controversial ruling failed to examine the credibility of the plaintiffs' claims, instead focusing on whether the court has jurisdiction in the case.



Shooter Adam Lanza killed 20 first-grade students and six educators at Sandy Hook Elementary School on December 14, 2012 with a Bushmaster XM15-E2S rifle, legally purchased by Lanza's mother, who was also killed by Lanza just before he began the shooting spree at Sandy Hook, though with a different gun.

Last year, the families of nine of the children and adults killed at Sandy Hook filed suit against Remington Arms, the parent company of Bushmaster Firearms.

Lawyers for Remington Arms asked for the lawsuit to be dismissed, citing the Protection of Lawful Commerce in Arms Act. But Judge Bellis determined on Thursday that the 2005 federal law that protects gun makers from lawsuits is not sufficient enough to throw out the case at this early stage.

Under the law, gun sellers and makers are granted immunity from liability when their product is used in a crime, with several exceptions, including defective weapons or issues of negligent entrustment, wherein a gun is carelessly sold to a person who has a high risk of misusing it. It is this exception under which the plaintiffs believe they have a case.

But Judge Bellis did not rule on the credibility of the plaintiffs' negligent entrustment argument, instead focusing on the narrower issue of whether she has the jurisdiction to continue with the case. "At this juncture," Bellis wrote, "the court need not and will not consider the merits of the plaintiffs' negligent entrustment theory."

Critics are questioning how Judge Bellis could not have considered the merits of the plaintiffs' argument, since the plaintiffs are citing the "negligent entrustment" exception within the Protection of Lawful Commerce in Arms Act as the basis for their legal challenge, and there appear to be no legal grounds for that exception to apply here. The gun was legally purchased by the shooter's mother, who has not been accused of committing a crime with the weapon. "The judge may be sympathetic to the plaintiffs but this case shouldn't have even gotten this far," the political blog Hot Air observed.

There remains a strong possibility that the defendants will be granted immunity under the federal law in the next round, but the *Hartford Courant* contends that Thursday's ruling could "prove a significant victory for the plaintiffs if ... Bellis permits them to begin the 'discovery,' enabling them to demand internal documents or depose gun industry officials."

Timothy Lytton, an expert in gun cases and tort law at the Georgia State University College of Law,



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indicates that this lawsuit is the first time that the 2005 law has been used against a gun manufacturer, and questions whether this particular suit qualifies for the negligent entrustment exception. “Is this really what entrustment means, or is it too much of a stretch in the concept?” he asked.

However, simply because Judge Bellis adopted what Lytton views as a “very narrow and technical approach” in the ruling does not mean the court necessarily agrees with the argument in the lawsuit, Lytton contends. “We don’t know whether this theory is going to be accepted by the court; we know the court is willing to think about it,” he said.

Joshua Koskoff, a lawyer for the families, celebrated the judge’s ruling. “We are thrilled that the gun companies’ motion to dismiss was denied,” he said. “The families look forward to continuing their fight in court.”



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