Written by **Bob Adelmann** on November 16, 2016

Reversal Sought in Dismissal of Lawsuit Against Remington in Connecticut

The long war against guns continues. When District Superior Court Judge Barbara Bellis dismissed the lawsuit last month brought against Remington Arms by families of victims following the massacre at the Sandy Hook Elementary School in 2012, the plaintiffs' attorney said they planned to appeal. That appeal was filed on Tuesday with the Connecticut Supreme Court.

Bellis had dismissed the original suit in light of the Protection of Lawful Commerce in Arms Act (PLCAA) passed by Congress and signed into law by President George W. Bush in 2005. In her opinion she wrote:

> Congress, through the [PLCAA] has broadly prohibited lawsuits "against manufacturers, distributors, dealers, and importers of firearms … for the harm solely caused by the criminal or unlawful use of firearm products … by others when the products functioned as designed and intended."

The plaintiffs' strategy in the original suit remains the same in their appeal: to use the exception called "negligent entrustment" built into the law whereby action may be brought if one party negligently "entrusted" a dangerous instrument to another who then used it to cause injury to a third party. In the original suit, the plaintiffs' attorneys argued that somehow Adam Lanza was "entrusted" with the firearm that he stole from his mother before using it to murder her and then the students at Sandy Hook. That didn't fly with Bellis:

> The present case seeks damages for harms … what were caused solely by the criminal misuse of a weapon by [Lanza]. Accordingly, this action falls squarely with the broad immunity provided by the PLCAA.

The argument for the appeal remains the same: Somehow when Remington Arms delivered the Bushmaster rifle to the wholesaler it engaged in "negligent entrustment." Remington knew, or should have known, that it might be used unlawfully. The new argument is so thin that emotion, sensationalism, and a very loose use of the facts are being used in the appeal in an attempt to hide it:

> Children and teachers were gunned down in classrooms and hallways with a weapon that was designed for our armed forces and engineered to deliver maximum carnage.
>
> Fifty-pound bodies were riddled with five, 11, even 13 bullets. This is not sensationalism. It is the reality the defendants [Remington, the wholesaler, and the dealer] created when they chose to sell a weapon of war and aggressively market its assaultive capabilities.

Readers see how thin the argument really is when the plaintiffs' attorneys have to use words such as

"riddled" and "carnage" and lies such as "designed for our armed forces" and "a weapon of war" to carry the day. The Bushmaster wasn't designed for the U.S. military and consequently it wasn't designed to deliver "maximum carnage." It was designed for sporting use and was turned into a weapon of destruction only by Lanza, not by Remington. It should also be noted that Remington, the wholesaler, and the gun shop followed all the state and federal regulations in selling the firearm to Nancy Lanza, Adam's mother.

But no. Plaintiffs, on appeal, are claiming that Remington "negligently entrusted the rifle to the public" and violated Connecticut's Unfair Trade Practices Act in marketing it to civilians.

The Connecticut Supreme Court should take note of the fact that previous attempts elsewhere to work around the PLCAA have failed. In 2010, the U.S. Supreme Court declined to hear an appeal in a similar case, *Ileto v. Glock*, which ended a lawsuit against Glock by the family of victims in the Los Angeles Jewish Community Center massacre. And again in 2012 when federal judge Paul Matsch dismissed a lawsuit against the gun store that sold some of the ammunition used by James Holmes in the Aurora, Colorado, massacre. In that case Matsch not only threw out the case against Glock but ordered the plaintiffs to pay the defendant's legal fees as well.

Hillary Clinton made repeal of the PLCAA one of her objectives were she to win the presidency. Donald Trump, on the other hand, has taken strong stands in support of the Second Amendment, and the capture of both houses of Congress by the Republican Party bodes well that the PLCAA will remain in place.

If by some chance the Connecticut Supreme Court does decide to consider the appeal, and then overrides the lower court's dismissal, the case is likely to be appealed further to the Supreme Court. That court is presently divided between liberals and conservatives. But by the time such an appeal winds its way to the high court, that present standoff is likely to have been resolved in favor of the Second Amendment.

That won't end the matter, but in the long war against guns, the improvement in circumstances in Washington will be an impediment to the advancement of the anti-gunners' agenda to remove all firearms from the hands of law-abiding citizens.

An Ivy League graduate and former investment advisor, Bob is a regular contributor to The New American *magazine and blogs frequently at LightFromTheRight.com, primarily on economics and politics. He can be reached at badelmann@thenewamerican.com.*

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