

Summary of the Families' Arguments against the Gun Companies

The families of nine victims and one survivor of the Sandy Hook massacre are asking the Connecticut Supreme Court to reverse a lower court's decision blocking their case against the makers and sellers of the AR-15 used in the shooting from moving forward. Their argument centers on the claim that the gun companies should not be granted immunity under the Protection of Lawful Commerce of Arms Act (PLCAA) because their actions triggered both the bill's negligent entrustment and predicate statute exemptions. Remington Arms Company deliberately marketed and sold the AR-15 to a high-risk user, while extolling the weapons prowess on the battlefield and using product placement in first-person shooter games that trained young men on tactics. Though they call the weapon a "modern sporting rifle," they advertise it as the empowering military combat killing machine it was designed to be. This conduct recklessly and negligently ignores and increases the clear, foreseeable harm of the weapon ending up with a high-risk user to use the weapon to inflict significant harm to innocent civilians. This conduct gives rise to two claims – negligent entrustment and violation of the Connecticut Unfair Trade Practices Act (CUTPA). Below is a detailed summary of the families' argument. (You can read the complete brief [here](#).)

The families argue that their case should be allowed to proceed for two primary reasons:

1. The Connecticut Unfair Trade Practices Act (CUTPA) was designed to protect consumers from unfair and deceptive business conduct and hold the responsible party responsible for its actions, and the lower court was wrong to limit those who can claim standing under CUTPA.

- Connecticut legislature's passing of CUTPA to "protect the public" has since repeatedly expanded the rights of individuals to bring legal action and has enacted 80 consumer protection statutes reliant on CUTPA.
- *The families have CUTPA standing.* Precedent dictates CUTPA standing is based on the damages sustained not being too remote and on the event being sufficiently related to the injury. As Connecticut's Attorney General argued in an Amicus Brief, the lower court erred in interpreting CUTPA to mean that there must also be a business relationship between the parties.
- The gun companies unscrupulously marketed a military weapon designed to inflict mass casualties to an untrained civilian population, specifically targeting violence-prone young men. This marketing campaign was therefore a violation of the state's CUTPA statute, thereby triggering PLCAA's predicate statute exemption.

2. PLCAA, the bill in which the gun companies rely on for immunity, provides several exemptions under which the companies can be held liable.

- PLCAA does not grant immunity in the event of negligent entrustment. The law makes clear that manufacturers and/or sellers can be held liable in the event the firearm is used criminally. PLCAA requires a firearm seller to act on what they "know or reasonably should know," and frames the buyer's use in terms of whether it "involve[ed] unreasonable risk of physical injury." Designed and still used today as a military weapon, there is no reasonable use for the AR-15 that doesn't pose a risk of injury.
- Negligent entrustment revolves around whether a company's production or sale of a weapon poses a foreseeable and objectively unreasonable risk of harm. The critical question is whether subsequent conduct was foreseeable. The families argue that the Bushmaster AR-15 is a military weapon designed specifically to inflict mass casualties on a battlefield, and is marketed in a way to induce high-risk customers who see an empowerment in the weapon with slogans like "forces

of opposition bow down you are single handedly outnumbered” and “get your man card reissued.” They argue that entrusting this weapon to these users increases the risk that the weapon would be used to commit mass murder.

- The distributor and seller of the AR-15 used by Adam Lanza knew of: Remington’s aggressive and public marketing campaign targeted at a “younger demographic,” the consequences of a porous regulatory system, the reality of firearm sharing and unsafe storage practices and the history of the AR-15’s use in mass shootings. Negligent entrustment requires “use in a manner involving unreasonable risk of physical harm” – not use that causes harm — whether because of “youth, inexperience, or otherwise,” a standard that places no limitation on the source of risk.
- Connecticut’s legislature did not sanction defendants’ AR-15 sales, despite the defendants’ factually and morally bankrupt claim that the CT General Assembly determined the XM15-E2S could be legally possessed. In fact, the legislature determined in 1993 that the sale of military grade weapons – AR-15s just like the XM15-E2S – threatened public safety.