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Judge: Sandy Hook families' lawsuit can go forward against gunmakers

By Daniel Tepfer and Ken Dixon Updated 3:13 pm, Thursday, April 14, 2016

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Attorney Joshua Koskoff, along with the Sandy Hook families that are suing Remington Arms for providing the AR-15-type Bushmaster, held a press conference at Koskoff, Koskoff & Bieder in Bridgeport on Monday, ... [more](#)

BRIDGEPORT - In a legal shot heard around the nation, a **Superior Court** judge ruled Thursday that a lawsuit by the families of the **Sandy Hook Elementary School** victims could proceed against the manufacturer of the military-style rifle used to kill the 20 first graders and six adults in December, 2012.

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Judge **Barbara Bellis** ruled that the federal law shielding gun makers from liability does not override the "legal sufficiency" of the claims by the Sandy Hook families that the Bushmaster XM-15 used by **Adam Lanza** should never have been made available for sale to civilians.

Gun-safety proponents immediately hailed the ruling as a landmark.

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Gov. **Dannel P. Malloy**, who earned a national reputation and became the state's leading advocate for gun-control reforms after the **Newtown school** massacre, said firearms companies should not be allowed blanket immunity from wrongful-death lawsuits. "I look at this as a moral victory," Malloy told Hearst Connecticut Media minutes after the judge's decision was filed.

Gun makers, dealers and sellers had claimed the Newtown families did not have legal

standing. The plaintiff families, however, claimed the gun maker and sellers knew that civilians are unfit to handle the rifle but continue selling it to civilians, disregarding the threat the gun poses to public safety.

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"The question of who - consumer, competitor, business relation, and/or an additional class of persons - has a protectable interest pursuant to (Connecticut Unfair Trade Practices Act) reflects a challenge to the plaintiffs' legal interests, not standing, and does not affect the court's subject matter jurisdiction over the plaintiffs' wrongful death claims," Bellis wrote. "Accordingly, the defendants' motions to dismiss cannot be granted on this ground."

Bellis ordered participating lawyers to her courtroom on April 19 for a status conference. But an appeal of the decision could sidetrack the issue, particularly any action by manufacturers filed in federal court. Calls to attorneys for the gun makers were not immediately returned Thursday.

Josh Koskoff, the attorney from the Bridgeport-based Koskoff, Koskoff & Bieder, representing the Newtown families, said he was pleased with Bellis's ruling.

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"We are thrilled that the gun companies' motion to dismiss was denied," Koskoff said in a statement. "The families look forward to continuing their fight in court."

In January 2015, the families of 10 victims sued the **Remington** Arms Company, which makes the Bushmaster; **Camfour** Holding LLC, the gun's distributor; and Riverview Sales, the now-defunct East Windsor gun store where Adam Lanza's mother Nancy legally bought the gun. Adam Lanza shot and killed his mother on the morning of December 14, 2012 with a .22 rifle before taking the Bushmaster and other weapons to the elementary school.

The lawsuit also alleges that Remington and the other defendants "unethically, oppressively, immorally and unscrupulously marketed and promoted the assaultive qualities and military uses of AR-15s to civilian purchasers."

On Dec. 11, 2015, Remington, Camfour and the gun store asked Judge Bellis to throw out the lawsuit, claiming immunity under the federal Protection of Lawful Commerce in Arms Act. A hearing on the defendants' motion was held on Feb. 22. The PLCAA bars lawsuits against manufacturers and sellers of a product that is used in a criminal action.

However, in analyzing the federal law, Bellis said the PLCAA's use of the term "may not" su manufacturers is not a clear statement from Congress limiting the power of courts in the cases.

"The court concludes that any immunity that PLCAA may provide does not implicate this court's subject matter jurisdiction," Bellis said in her 18-page decision. "Accordingly, the defendants' motions to dismiss, in which they claim that the court lacks subject matter jurisdiction, cannot be granted on the basis of PLCAA."

Sachin Padya, professor of law at the **University of Connecticut**, said Thursday that Judge Bellis was reading the defendants' argument as a motion to dismiss, not on the merits of the case but on whether she could hear it in the first place.

"The judge is saying the defendants are wrong that the federal statute strips the court of the power to hear the case," Padya said. "She says the law does not restrict the court's power to hear the case."

Padya said the court's decision does not stop the defendants from later seeking to strike or throw out the case on the merits.

Malloy, a former criminal prosecutor who led the effort to expand the state's ban on military style weapons and large-capacity magazines after the school shootings, contrasted the firearms and pharmaceutical industries, both of which have a major presence in Connecticut.

"This is a business that's designed to save lives and make lives better, yet they can be sued," Malloy said of drug companies. "Then we have another industry that's based on death and destruction of the population our country with weapons of mass destruction and they get immunity. It makes no sense at all."

Malloy, who is supporting **Hillary Clinton** for the Democratic presidential nomination, said the ruling also underscores the difference between Clinton and Vermont Sen. **Bernie Sanders** on the issue of gun control reform. Clinton's surrogates, including Malloy, have criticized Sanders for saying that the Newtown victims' families should not be allowed to

sue Bushmaster's parent company Remington. They have also panned Sanders for voting 2005 law that gives gun manufacturers immunity from wrongful death lawsuits.

"Common sense gets around Bernie Sanders," Malloy said.

Sanders' campaign was not immediately prepared to comment, though it has said in the past that Sanders has a lifetime grade of D from the **National Rifle Association** for his record on gun control.

Neil Vigdor contributed to this report.

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