

# Sandy Hook Families Get "Small Victory" In Lawsuit Against Gun Manufacturer

By DAVE ALTIMARI

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HARTFORD — The decision by a federal judge to move to state court a lawsuit against the manufacturer of the Bushmaster assault rifle used in the 2012 Sandy Hook school shooting is an initial victory in a long fight for families of 10 victims who are suing, experts said.

"There is a possible tactical advantage for the plaintiffs that now, if the case ever goes to a jury, it would be in front of people in Connecticut who would closely identify with the victims," said Timothy Lytton, a law professor at Georgia State University who wrote a book about the difficulty in suing gun companies.

Lytton cautioned the ruling is a "small victory" equivalent to winning the first round of a long fight with bigger battles still to be fought. The biggest will be surviving a motion of summary judgment to have the case dismissed completely.

"I'm sure the plaintiffs feel that they can possibly find a judge in state court that would be more inclined to allow the case to get before a jury," Lytton said, before cautioning "getting to a jury with this case is still a significant hurdle."

The wrongful death lawsuit, originally filed in state Superior Court in Bridgeport, claimed that the Bushmaster AR-15 used by Adam Lanza to kill 26 people, including 20 first-graders on Dec. 14, 2012, inside Sandy Hook Elementary School, should not be sold to the public because it is a military assault weapon designed for war.

The lawsuit named Bushmaster, the manufacturer of the weapon, as well as Camfour, a firearms distributor, and Riverview Gun Sales, where Nancy Lanza, the shooter's mother, purchased the Bushmaster in 2010.

Bushmaster had the case moved to federal court shortly after it was filed and then argued that the claims against Riverview were meritless and that Riverview had fraudulently been named a defendant.

But U.S. District Court Judge Robert Chatigny earlier this week rejected that argument and sent the case back to Bridgeport court. Chatigny did not issue an opinion to back up his ruling. A remand to state court is not appealable, attorney Joshua Koskoff said. He is representing the victims.

Koskoff said the ruling is "major setback" for gun manufacturers who do not want these cases to be tried in state courts.

Lytton said there are two things that the gun manufacturers do not want – discovery to commence where they might have to reveal how they market their guns and for a case to go to a jury trial where the potential monetary damages would be astronomical.

The potentially landmark lawsuit by families of nine students and adults killed and one surviving teacher who was shot several times by Adam Lanza will attempt to use what is known as the negligent entrustment exemption to the law.

In a negligent entrustment case, a party can be held liable for entrusting a product, in this case the Bushmaster rifle, to another party who then causes harm to a third party.

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# Suit against maker of gun used in Newtown attack sent back to state court

BRIDGEPORT, CONN. | BY RICHARD WEIZEL

A federal judge has sent back to state court a lawsuit filed by the families of 10 victims of the 2012 massacre in a Newtown, Connecticut, elementary school against the maker of the rifle used in the attack.

U.S. District Court Judge Robert Chatigny, late Wednesday ruled that the lawsuit against the maker of Bushmaster rifles should be sent back to state court, where it was originally filed.

Shortly after the families brought suit in December 2014, Bushmaster filed to have the case moved to federal court, arguing that a federal law granted broad immunity to the gun industry.

Remington Outdoor Co, which owns Bushmaster, filed papers with the U.S. District Court in Hartford earlier this year to have the suit moved to federal court on grounds the company's headquarters are in North Carolina, beyond Connecticut jurisdiction.

"All my clients seek is an opportunity to present their case to a Connecticut jury," said attorney Josh Koskoff, representing the Sandy Hook families. "This ruling brings them one step closer to that goal. It is a major setback for the gun industry in their attempt to avoid responsibility for tragedies like Newtown."

Bushmaster attorney James Vogts could not be reached for immediate comment.

Legal experts have said federal courts have a track record of rejecting gun manufacturer liability cases, citing a federal law, the 2005 Protection of Lawful Commerce in Arms Act, that blocks liability suits against gun-makers when their products are used to commit crimes, while allowing some exceptions.

The 40-page suit argues Remington is liable for making the weapon available to Adam Lanza, 20, who gunned down 20 first-graders and six staff at the school on Dec. 14, 2012, in one of the deadliest school shootings in U.S. history.

The gun, an AR-15 assault rifle, was legally purchased by Lanza's mother, Nancy Lanza, who he shot dead at their Newtown home before his rampage at the school.