STATE OF CONNECTICUT

Docket No. X10-UWY-CV-23-6072789 S
Docket No. X10-UWY-CV-23-6072791 S

RADMILO STANISIC, REPRESENTATIVE OF THE ESTATE OF NEVEN STANISIC, ET AL.	SUPERIOR COURT
v.	
STURM, RUGER & COMPANY, INC.	COMPLEX LITIGATION DOCKET AT WATERBURY
NATHANIEL GETZ, EXECUTOR OF THE ESTATE OF SUZANNE L. FOUNTAIN	
v.	
STURM, RUGER & COMPANY, INC.	FEBRUARY 27, 2025

MEMORANDUM OF DECISION RE MOTIONS TO DISMISS BASED ON FORUM NON CONVENIENS

STATEMENT OF THE CASE

These consolidated civil actions arise from a mass shooting that occurred on March 22, 2021, at the King Soopers supermarket in Boulder, Colorado.

I

A

According to the plaintiffs' operative complaints, on March 22, 2021, a twenty-one year old gunman, acting alone, arrived at the King Soopers supermarket in Boulder, Colorado—which was teeming with unsuspecting customers—armed with a Ruger AR-556 pistol, "which was actually a short-barreled rifle." *Stanisic* v. *Sturm,*

Ruger & Company, Inc., Docket No. X10-UWY-CV-23-6072789-S (Stanisic Action), Amended Complaint dated August 8, 2023 (Docket Entry No. 1156) (Amended Complaint), ¶ 22. Further according to the plaintiffs, after arriving at the supermarket, the gunman—Ahmad Al-Aliwi Alissa—opened fire indiscriminately, "firing the 'pistol' from his shoulder just like an AR-15-style short-barreled rifle, leaving no opportunity for the terrified customers to flee. In less than [eight] minutes, the shooter killed ten people . . . ." Id.

Among those killed were Neven Stanisic, Denny Strong, Lynn Murray, Jody Waters, and Kevin Mahoney, whose estates brought this civil action in Connecticut state court against the defendant, Sturm, Ruger & Company, in connection with their deaths. Also killed was Suzanne L. Fountain, whose estate brought a separate action against the defendant, which has been consolidated with the Stanisic Action. See *Getz* v. *Sturm, Ruger & Company, Inc.*, Docket No. X10-UWY-CV-23-6072791-S (Getz Action).[1]

The plaintiffs allege that the defendant "was founded in Connecticut in 1949, incorporated in Delaware in its current form in 1969, and [is] headquartered in Southport, Connecticut." Stanisic Action, Amended Complaint, ¶ 2. The plaintiffs further allege that the defendant "manufactured, marketed, and sold AR-556 full-length rifles and short-barreled rifles, the latter of which [the defendant] misleadingly called 'pistols'." Id. Moreover, the defendant purportedly

[1] According to the plaintiffs, the other victims of the mass shooting were Tralona Bartkowiak, Rikki Olds, Teri Leiker, and Eric Talley, a Boulder police officer.

"manufactured the semi-automatic AR-556 '[p]istol' that was used in the shooting . . . on March 22, 2021 . . . ." Id., ¶ 3.

By way of history, the plaintiffs contend that the defendant "designed the AR-556 and introduced it in 2014 as a full-length entry-level, AR-15-style rifle." Id., ¶ 9. Thereafter, in 2019, the defendant "introduced a 'pistol' variant of the AR-556 [r]ifle line and marketed it" with a promotional image of the weapon, "including in the weeks leading up to the mass shooting . . . ." Id., ¶ 10. According to the plaintiffs, "AR-556 '[p]istols' function similarly to [the defendant's] full-length AR-556 [r]ifles but have shortened barrels. . . . [T]he 'pistol' variant [was assembled] with an altered stock in an attempt to circumvent the requirements of federal law applicable to short-barreled rifles." Id., ¶ 11.

More specifically, the plaintiffs claim that the defendant's AR-556 pistol was equipped with a stabilizing brace that allowed the shooter to fire it with just one hand, "enabl[ing] and intend[ing] shooters to brace the weapons against their shoulders while firing—like short-barreled rifles." Id., ¶ 13. The plaintiffs also claim that the defendant entered into a business relationship with a third-party stabilizing brace manufacturer—SB Tactical[2]—as part of the defendant's efforts to "cater to civilian consumer demand for short-barreled rifles available outside the rigorous, expensive, and time-consuming [National Firearms Act of 1934, 26 U.S.C. § 5801 et

[2] According to the plaintiffs, SB Tactical is "a company that mocks, and even openly defies, the ATF." *Stanisic* v. *Sturm, Ruger & Company, Inc.*, Docket No. X10-UWY-CV-23-6072789-S (Stanisic Action), Amended Complaint dated August 8, 2023 (Docket Entry No. 1156) (Amended Complaint) ¶ 68.

seq. (NFA)] approval process and, in order to maintain plausible deniability while producing such unlawful short-barreled rifles, substituted [third-party] braces for conventional shoulder stocks." Id., ¶¶ 65-71.

The plaintiffs allege that the defendant designed the AR-556 pistol to "utilize the same ammunition and magazines as the full-length AR-556 [r]ifles and other AR-15-style weapons," and further, that as a result of the defendant's design choices, "the AR-556 '[p]istol' is significantly more deadly than other pistols on the market." Id., ¶¶ 15, 16. According to the plaintiffs, not only did the defendant design the AR-556 to be more deadly than other pistols, it designed the weapon "to allow consumers to use [it] as an AR-15-style short-barreled rifle while evading federal laws and regulations targeted at short-barreled rifles." Id., ¶ 17.

As these allegations suggest, the plaintiffs dispute the defendant's characterization of the AR-556 as a "pistol"—rather, they contend repeatedly that the AR-556 is actually "an AR-15-style weapon. It is more similar in design and function to a full-length AR-15 rifle than it is to a typical 9-mm pistol." Id., ¶ 34; see also id., ¶ 26 n.1 (the defendant's "AR-556 '[p]istols' were in fact short-barreled rifles, not pistols"). In support of their claim that the defendant's AR-556 pistol is actually a short-barreled rifle masquerading as a pistol, the plaintiffs contend that: (1) the defendant marketed the pistols "as being designed like rifles"; (2) the pistol's shorter barrels make them easier to conceal, transport, and maneuver in tight spaces; (3) the AR-556 pistol is "designed to use rifle-caliber ammunition rather than handgun ammunition" and "wounds caused by high-velocity, rifle-caliber ammunition

generally cause more widespread and catastrophic damage to the human body"; and (4) the "[s]houldering" of the AR-556 pistol design "enables a shooter to direct the rifle's firepower more accurately and better manage" its recoil. Id., ¶¶ 35-38. As a result of the foregoing, the AR-556 pistol "combine[s] devastating firepower with the concealability and maneuverability of smaller guns." Id., ¶ 39.

The plaintiffs allege that the defendant designed, marketed, and sold the AR-556 pistol "knowing that [it] would be purchased by consumers who did not undergo the rigorous vetting required by federal law for purchasers of short-barreled rifles, and knowing and intending that they would be fired from the shoulder." Id., ¶ 18. The plaintiffs further allege that the "rigorous vetting" required by federal statute can take as long as seven months to complete, and "includes providing fingerprints and a photo for a comprehensive background check, notification to the chief law enforcement officer in the applicant's locality, payment of a $200 tax, and approval by [the] Bureau of Alcohol, Tobacco, Firearms and Explosives ('ATF') . . . ." Id., ¶ 18-19. The plaintiffs claim that the defendant "produces a near-identical weapon for law enforcement buyers" that it properly markets and sells as a short-barreled rifle, known as the "AR-556 MPR." Id., ¶ 20.

Finally, according to the plaintiffs, "AR-15-style weapons have become the weapon of choice for the deadliest mass shooters and, since their introduction to the market, AR-15-style 'pistols,' like the AR-556, have been used in multiple mass shootings, including the shooting that is the subject of this action." Id., ¶ 21.

B

As noted above, the plaintiffs claim that on March 22, 2021, Alissa arrived at a King Soopers supermarket in Boulder, Colorado, armed with the defendant's AR-556 pistol, and opened fire. Id., ¶ 22. The plaintiffs also claim that Alissa—who had a history of misdemeanor assault—acquired the weapon "on March 16, 2021, a mere *six days* before the mass shooting." (Emphasis in original.) Id., ¶ 23, 100. Alissa purchased the weapon from a licensed federal firearms dealer in Arvada, Colorado, which does not sell weapons subject to the NFA vetting process. Id., ¶¶ 100, 101, 105.

According to the plaintiffs, Alissa was able to bypass the rigorous and months-long application process, and kill ten people with the weapon, because the defendant "knowingly designed, made, and intended the AR-556 '[p]istol' to be fired from the shoulder and made a callous and disingenuous decision to manufacture, market, and sell this type of weapon as an AR-15-style 'pistol' rather than as what it is: a short-barreled rifle. In doing so, [the defendant] unlawfully marketed and sold these weapons by bypassing critical safety requirements imposed by federal law." Id., ¶ 25.[3] The plaintiffs maintain that the defendant's wrongful conduct was a proximate cause of their decedents' deaths. Id., ¶ 26.

C

Based upon these and other factual assertions, the plaintiffs claim that the defendant violated the NFA. Id., ¶ 94 (the defendant "violated the NFA in

[3] The plaintiffs allege that, after the mass shooting incident at issue, the defendant stopped producing the AR-556 pistol. However, the pistols remain in circulation and are available for civilian purchase from third-party sellers. Id., ¶ 56.

manufacturing, assembling, and transferring its AR-556 [pistols], including the weapon subsequently purchased by [Alissa]"); ¶ 97 (the defendant "unlawfully distributed the AR-556 [pistols] to the civilian consumer market"). They also allege violations of the Gun Control Act of 1968, 18 U.S.C. § 921 et seq. (GCA). Id., ¶ 50 ("the GCA prohibits manufacturers from selling or delivering short-barreled rifles to any person without the proper authorization"); ¶ 110 (alleging that the defendant's actions constituted "knowing violations of the . . . GCA, [which] were a proximate cause of and substantial factor in the deaths of the [plaintiffs' decedents] . . .").

The six plaintiffs bring claims against the defendant in wrongful death, pursuant to General Statutes § 52-555,[4] based upon alleged (1) violations of the Connecticut Unfair Trade Practices Act, General Statutes § 42-110a et seq. (CUTPA)[5]; (2) negligence; (3) negligence per se; (4) public nuisance; and (5) common law recklessness.

---

[4] General Statutes § 52-555 (a) reads, in relevant part: "In any action surviving to or brought by an executor or administrator for injuries resulting in death, whether instantaneous or otherwise, such executor or administrator may recover from the party legally at fault for such injuries just damages together with the cost of reasonably necessary medical, hospital and nursing services, and including funeral expenses, provided no action shall be brought to recover such damages and disbursements but within two years from the date of death, and except that no such action may be brought more than five years from the date of the act or omission complained of."

[5] General Statutes § 42-110b (a) reads, in relevant part: "No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce."

D

The plaintiffs allege that the defendant is a Delaware corporation that is headquartered in Southport, Connecticut. Id., ¶ 2. The defendant does not dispute that it is headquartered here. See Stanisic Action, Def. Supp. Memo. (Docket Entry No. 1179), Exhibit 1, Affidavit of J. Vogts dated June 6, 2024 ("Vogts Aff."), ¶ 5 ("[the defendant's] corporate headquarters are located in Connecticut"). It also "leases a facility in Enfield, Connecticut." Stanisic Action, Amended Complaint, ¶ 28.

According to the plaintiffs, the defendant's principal executive officers work in Connecticut, including its "president, and chief executive officer, chief financial officer, vice president of sales, and general counsel." Id., ¶ 29. "[A]dditional legal and compliance employees work in Connecticut, including [the defendant's] associate general counsel for ATF compliance." Id. Further according to the plaintiffs, Connecticut-based employees of the defendant "include engineers involved in designing [the defendant's] weapons"; "executives and other employees based in [the defendant's] Connecticut headquarters direct, control, and/or approve (a) the design of [the defendant's] weapons; (b) [the defendant's] agreements to partner with third-party companies and/or to acquire firearms accessories or component parts from third party companies; and (c) [the defendant's] policies and procedures for compliance with the [GCA], and the [NFA]"; and the defendant's "manufacturing plants outside of Connecticut all report to employees based out of [its] Connecticut headquarters . . . ." Id., ¶¶ 30-32.

II

A

In response to the operative complaints, the defendant filed motions to dismiss based upon the doctrine of forum non conveniens. Stanisic Action, Docket Entry No. 1178; Getz Action, Docket Entry No. 150. In its motions, the defendant argues that, as the weapon used in the shooting was purchased in Colorado, the incident that resulted in the decedents' deaths occurred in Colorado, the police investigation of the incident occurred in Colorado, and medical professionals who evaluated Alissa's mental health and motivations reside in Colorado, witnesses and materials relating to the plaintiffs' claims are located largely in Colorado, which is an adequate alternative forum to litigate these claims. Moreover, the defendant posits that "[t]he decision to develop, manufacture, and distribute the AR-556 pistol was made in North Carolina," and further, that the weapon used by Alissa was manufactured in North Carolina. Pl. Obj. and Responses to Pl. Second Set of Interrog. dated October 14, 2024, Answer to Interrog. No. 1.

The plaintiffs object. Stanisic Action, Docket Entry No. 1183; Getz Action, Docket Entry No. 155. In opposition, the plaintiffs argue that the gravamen of this dispute is the defendant's design, production, distribution, and marketing of the AR-556 pistol. As stated by the plaintiffs, "[the defendant's] own conduct, not the shooter's, is at the heart of each of [the plaintiffs'] claims." Stanisic Action, Pl. Supp. Memo. dated July 19, 2024 (Docket Entry No. 1183), p. 6. Given that the defendant is headquartered in Connecticut, and evidence shows that much of the decision

making pertaining to the weapon's design, production, distribution, and marketing of the weapon occurred in this state—or was subject to the review and approval of senior executives based here—the plaintiffs argue that Connecticut is not an inconvenient forum for this litigation. In light of the alleged nexus between Connecticut and the plaintiffs' claims against the defendant, the location of other witnesses in East Coast states, and the legal principle—discussed in greater detail below—that a plaintiff's choice of forum should rarely be disturbed, the plaintiffs urge the court to deny the defendant's motions.

While oral argument on the motions was held on September 9, 2024, at the request of the parties, the court allowed additional time for the parties to engage in supplemental fact discovery pertaining to the doctrine of forum non conveniens. See Stanisic Action, Order at Docket Entry No. 1178.10. In addition, and at the further request of the parties, the court extended the time for the submission of supplemental briefs, and additional evidentiary materials, to December 3, 2024, on which date the court took these matters under advisement. See Stanisic Action, Order at Docket Entry No. 1200.10; Stanisic Action, Supplemental Briefs at Docket Entry Nos. 1204 and 1205.

B

In connection with the motions to dismiss pending before the court, the parties filed affidavits and other evidentiary materials. See Stanisic Action, Exhibits to Docket Entry No. 1179; Stanisic Action, Exhibits to Supplemental Briefs, Docket Entry Nos. 1204 and 1205.

It is undisputed, and the evidence submitted demonstrates, that a number of relevant witnesses are located in Colorado. For example, Alissa is incarcerated at the Colorado Mental Health Institute in Pueblo, Colorado, and Colorado-based health care providers, including Drs. Loandra Torres and Kate Reis, interviewed Alissa and evaluated his mental competency. These interviews touched upon Alissa's reasons for purchasing the firearms in his possession at the time of the shooting. Stanisic Action, Vogts Aff., ¶¶ 6, 8. Also located in Colorado is "John Eagleton, the owner of Eagle's Nest Armory in Arvada, Colorado and the person who completed the firearms' transfer to . . . Alissa . . . ." Id., ¶ 9. The Boulder Police Department, whose records are in Colorado, conducted an extensive investigation of the shooting. Moreover, according to the defendant, certain named officers and detectives of the Boulder Police Department—including Detectives Sarah Cantu and Joanna Compton, Officer Richard Steidell, and others—who observed some of the mass shooting or its aftermath, are not subject to compulsory process in Connecticut. In addition, the defendant avers that, upon information and belief, certain named supermarket employees and customers who were present at the time of the shooting, "may have information concerning the manner in which the pistol was used and fired and the extent to which the [plaintiffs'] decedents experienced ante-mortem pain and suffering." Id., ¶ 13.

Although these witnesses and documents are located in Colorado, the plaintiffs contend, in opposition, that witnesses and documentation located in Connecticut—or in East Coast states that are closer to Connecticut than Colorado—are pivotal to their

legal claims against the defendant. According to the plaintiffs, the critical issues in this case were the defendant's decisions to "(a) pair [the AR-556 pistol] with a short barrel and a stock designed as a 'brace' and (b) nevertheless market and sell the weapon as a 'pistol.' . . . Connecticut-based . . . employees and executives [of the defendant] were central to those decisions." Pl. Suppl. Opp. Memo. dated December 3, 2024 (No. 1205), p. 9.

In connection with this argument, the plaintiffs have demonstrated that the defendant's legal department, and its general counsel, are based in its Southport, Connecticut headquarters, and further, that its chief executive officer (Christopher Killoy), chief financial officer (Tom Dineen), and sales director (RG Stitt) were all based in Connecticut during the development and launch of the AR-556 pistol.[6] In addition, the defendant's associate general counsel for ATF compliance, Nathan Siegel—who authored the defendant's AR-556 pistol submission to the ATF—is also based in the defendant's Southport, Connecticut headquarters. The plaintiffs have introduced evidence that Siegel is well known within the defendant's organization to be an authority on ATF compliance matters.

Moreover, the defendant's Connecticut-based legal department approved the marketing and sale of the AR-556 weapon used by Alissa as a "pistol," which approval was granted during a January 2019 meeting with a New Hampshire-based executive (Mark Gurney), who served as the defendant's director of product management. The launch of the defendant's AR-556 pistol required the consent of the defendant's

[6] Stitt now resides in Florida.

Connecticut-based CEO and general counsel. Evidence introduced by the plaintiffs also demonstrates that, despite endorsing the product launch, the defendant's general counsel had concerns about how the ATF would classify the AR-556 pistol. Thus, senior Connecticut-based executives of the defendant, and the defendant's Connecticut-based legal department, are important sources of evidence regarding the defendant's decision to sell its AR-556 pistol, its classification of this weapon as a "pistol," its "shouldering legality," and its compliance with NFA and GSA requirements.

Other witnesses relevant to the defendant's purported liability work or reside in East Coast states, and thus, are located closer to Connecticut than Colorado. For example, and as just noted, Mark Gurney, the director of product management who was involved in the development of the AR-556 pistol, is based in New Hampshire. The defendant's marketing department, led by Vice President Rob Werkmeister, was based in Fairport, New York during the relevant time frame. Werkmeister has since moved to Florida, and the marketing team now works remotely from locations in Florida and New York. Still other witnesses are based in North Carolina. These witnesses include Matt Willson—the product manager who first conceived the subject weapon—Matt Osborne, former manager of supply chain logistics—and other members on the product team. These individuals are expected to testify about important aspects of the marketing and design of the defendant's AR-556 pistol. In addition, and as for those out-of-state witness located along the East Coast, of note is the testimony of the defendant's vice president of new product development, Michael

Wilson, to the effect that the Enfield, Connecticut office is a central—and implicitly convenient—place for the defendant's executives and employees to meet. Depo. of Michael Wilson dated November 8, 2024, 41(7-11) ("[i]f I went to [the defendant's Enfield, Connecticut location] in the past it was due to a meeting with some of our folks from New Hampshire, *because it's kind of a central meeting point between [Southport, Connecticut,] North Carolina, New Hampshire*" [emphasis added]). Finally, relevant decisions made by these East Coast-based witnesses were subject to review and approval by the defendant's Connecticut-based leadership.

Additional facts are set forth below as necessary.

DISCUSSION

I

"The principle of forum non conveniens is simply that a court may resist imposition upon its jurisdiction even when jurisdiction is authorized by the letter of a general venue statute. These statutes are drawn with a necessary generality and usually give a plaintiff a choice of courts, so that he may be quite sure of some place in which to pursue his remedy. But the open door may admit those who seek not simply justice but perhaps justice blended with some harassment. . . .

"Many of the states have met misuse of venue by investing courts with a discretion to change the place of trial on various grounds, such as the convenience of witnesses and the ends of justice. . . . [T]he problem [of misuse of venue] is a very old one affecting the administration of the courts as well as the rights of litigants, and

both in England and in this country the common law worked out techniques and criteria for dealing with it.

"Wisely, it has not been attempted to catalogue the circumstances which will justify or require either grant or denial of remedy. The doctrine leaves much to the discretion of the court to which [the] plaintiff resorts, and experience has not shown a judicial tendency to renounce one's own jurisdiction so strong as to result in many abuses." (Emphasis in original; footnotes omitted.) *Gulf Oil Corp.* v. *Gilbert*, 330 U.S. 501, 507-08, 67 S. Ct. 839, 91 L. Ed. 1055 (1947).

Although the problem of misuse of venue may be an old one, recent legal scholarship demonstrates that—despite its Latin appellation—the doctrine of forum non conveniens is not old. See W. Dodge et al., "The Many State Doctrines of Forum Non Conveniens," 72 Duke L.J. 1163, 1166 (2023) ("[I]t is well known that federal courts have only exercised . . . discretionary power since 1947, when the U.S. Supreme Court first recognized a general doctrine of forum non conveniens in *Gulf Oil Corp*. v. *Gilbert*. * * * [Moreover,] state forum non conveniens is not an ancient doctrine; for state courts, forum non conveniens is firmly a twentieth-century development."); id., 1173 ("the doctrine of forum non conveniens is neither ancient nor fixed").

This is borne out by the history of forum non conveniens in Connecticut. The first reported Connecticut case to address the doctrine in detail was a 1986 decision of the Superior Court. See *Miller* v. *United Technologies Corp.*, 40 Conn. Supp. 457, 515 A.2d 390 (1986) (citing *Brown* v. *Brown*, 195 Conn. 98, 486 A.2d 1116 [1985], and an unreported decision of the Connecticut Superior Court from 1983). In *Miller*,

although the Superior Court did not expressly adopt the doctrine as developed by the federal courts, it applied the doctrine in accordance with the federal standard established by the United States Supreme Court in *Gulf Oil* and *Piper Aircraft Co.* v. *Reyno*, 454 U.S. 235, 102 S. Ct. 252, 70 L. Ed. 2d 419 (1981), rehearing denied, 455 U.S. 928, 102 S. Ct. 1296, 71 L. Ed. 2d 474 (1982).

The Supreme Court of Connecticut followed suit in *Union Carbide Corp.* v. *Aetna Casualty & Surety Co.*, 212 Conn. 311, 319, 562 A.2d 15 (1989), wherein it held that "the guidelines stated in *Gulf Oil* . . . , and restated in *Piper Aircraft* . . . , provide a useful frame of reference for the resolution of [the forum non conveniens] question." (Citation omitted.) Subsequent forum non conveniens cases decided by our Supreme Court confirm that Connecticut has followed federal legal standards in applying the doctrine. See *Durkin* v. *Intevac, Inc.*, 258 Conn. 454, 466, 782 A.2d 103 (2001) ("we turn to the . . . process for examining forum non conveniens claims outlined in *Gulf Oil*, . . . which we have stated is a 'useful frame of reference for the law of Connecticut'" [citations omitted]), citing *Picketts* v. *International Playtex, Inc.*, 215 Conn. 490, 497, 576 A.2d 518 (1990). See also *Can* v. *Goodrich Pump & Engine Control Systems, Inc.*, 711 F. Supp. 2d 241, 253 (D. Conn. 2010) ("[t]he Connecticut Supreme Court has pointed to federal decisions on *forum non conveniens* as the proper 'frame of reference' for Connecticut law" [emphasis in original]). The evolution of the doctrine in Connecticut, as well as the state's reliance on federal precedents, is typical of other states. W. Dodge et al., supra, 72 Duke L.J. 1216 ("[t]oday, most states . . . follow the federal model or a doctrine very close to it").

II

A

"As a common law matter, the doctrine of forum non conveniens vests discretion in the trial court to decide where trial will best serve the convenience of the parties and the ends of justice. . . .

"[U]nless the balance is strongly in favor of the defendant[s], the plaintiff[s'] choice of forum should rarely be disturbed. . . . Although it would be inappropriate to invoke [a] rigid rule to govern discretion . . . it bears emphasis that invocation of the doctrine of forum non conveniens is a drastic remedy . . . which the trial court must approach with caution and restraint. The trial court does not have unchecked discretion to dismiss cases from [the plaintiffs'] chosen forum simply because another forum, in the court's view, may be superior to that chosen by the plaintiff[s]. . . . Although a trial court applying the doctrine of forum non conveniens must walk a delicate line to avoid implicitly sanctioning forum-shopping by either litigant at the expense of the other . . . it cannot exercise its discretion in order to level the playing field between the parties. The [plaintiffs'] choice of forum, which may well have been chosen precisely because it provides the plaintiff[s] with certain procedural or substantive advantages, should be respected unless equity weighs strongly in favor of the defendant[s]." (Citations omitted; internal quotation marks omitted.) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 463-65; accord *Picketts* v. *International Playtex, Inc.*, supra, 215 Conn. 500, citing *Gulf Oil Corp.* v. *Gilbert*, supra, 330 U.S. 508 ("*unless*

the balance is strongly in favor of the defendant, the plaintiff's choice of forum should rarely be disturbed") [emphasis in original; internal quotation marks omitted]).

B

"[T]he overriding inquiry in a forum non conveniens motion is not whether some other forum might be a good one, or even a better one than the [plaintiffs'] chosen forum. The question to be answered is whether [the plaintiffs'] chosen forum is itself inappropriate or unfair because of the various private and public interest considerations involved. . . . Accordingly, the trial court, in exercising its structured discretion, should place its thumb firmly on the [plaintiffs'] side of the scale, as a representation of the strong presumption in favor of the [plaintiffs'] chosen forum, before attempting to balance the private and public interest factors relevant to a forum non conveniens motion.

"When . . . the plaintiffs are foreign to their chosen forum, the trial court must readjust the downward pressure of its thumb, but not remove it altogether from the plaintiffs' side of the scale. Even though the plaintiffs' preference has a diminished impact because the plaintiffs are themselves strangers to their chosen forum . . . Connecticut continues to have a responsibility to those foreign plaintiffs who properly invoke the jurisdiction of this forum. . . especially in the somewhat unusual [situation in which] it is the forum resident who seeks dismissal. . . . [Therefore] [w]hile the weight to be given to the choice of a domestic forum by foreign plaintiffs is diminished, their entitlement to a preference does not disappear entirely. The defendants challenging the propriety of this choice continue to bear the burden to demonstrate

why the presumption in favor of [the plaintiffs'] choice, weakened though it may be, should be disturbed."[7] (Internal quotation marks omitted.) *Durkin* v. *Intevac, Inc.*,

---

[7] This raises the following question, which has not yet been addressed expressly by a Connecticut appellate court: under our state common law doctrine of forum non conveniens, what type of plaintiff is "foreign to their chosen forum"—thereby requiring a reduction of the downward pressure in favor of the plaintiff's chosen venue—non-U.S. citizens, or U.S. citizens who are not residents of Connecticut? "The [courts] are divided, . . . over whether *Piper*'s rule of less deference applies only to non-U.S. residents . . . or also to U.S. plaintiffs who reside in other states . . . ." W. Dodge et al., "The Many State Doctrines of Forum Non Conveniens," 72 Duke L.J. 1163, 1202-03 (2023).

In *Zions First National Bank* v. *Moto Diesel Mexicana, S.A. de C.V.*, 629 F.3d 520 (6th Cir. 2010), the Sixth Circuit refused to reduce the downward pressure in favor of a plaintiff's chosen forum, where the plaintiff was a Utah-based company that was a nonresident of Michigan, where the case was brought. In doing so, the court reasoned that "[u]nlike the Scottish plaintiff in *Piper Aircraft*, . . . [the plaintiff] is not a foreign plaintiff. It is a corporation with its principal place of business in Salt Lake City, Utah, and therefore a U.S. plaintiff. *Thus, the lesser standard of deference to a plaintiff's choice of forum does not apply*." (Emphasis altered.) Id., 525.

Although *Zions First National Bank* is a federal court decision reflecting the view that, for purposes of the standard of deference, the federal forum encompasses the entire United States, certain state jurisdictions have also espoused a nationwide standard of deference in applying their own common law doctrine of forum non conveniens. For example, according to the Supreme Court of Minnesota, "we construe the reference to 'foreign' to be in the context of nationality, not state residency. . . . [O]ur state courts frequently entertain jurisdiction over United States nationals [who are] nonresidents of Minnesota. To accord less deference to the choice of forum of a United States citizen because the plaintiff is not a resident of Minnesota simply defies fairness and logic." *Kennecott Holdings Corp.* v. *Liberty Mutual Ins. Co.*, 578 N.W.2d 358, 361 (Minn. 1998). See also *DePuy Orthopaedics, Inc.* v. *Brown*, 29 N.E.3d 729, 733 n.4, rehearing denied, (Ind. 2015) ("[w]e relax that deferential standard with respect to foreign plaintiffs because *every U.S. jurisdiction is presumptively equally convenient*" [emphasis added]); *Cortez* v. *Palace Resorts, Inc.*, 123 So. 3d 1085, 1096, rehearing denied (Fla. 2013) ("*except where the plaintiff is from another country*, the presumption in favor of the plaintiff's initial choice of forum is always entitled to great deference" [emphasis added]), abrogated in part on other grounds by *Askew* v. *Florida Dept. of Children & Families*, 385 So. 3d 1034 (Fla. 2024).

supra, 258 Conn. 465, citing *Picketts* v. *International Playtex, Inc.*, supra, 215 Conn. 500-02.

In addition to the presumption favoring Connecticut as the plaintiffs' chosen forum, the fact that the defendant is headquartered here suggests that Connecticut is convenient for this litigation. Certainly, the location of a corporate defendant's headquarters is not, in and of itself, dispositive of a forum non conveniens inquiry. "A court considering a motion for dismissal on the grounds of forum non conveniens does not assign talismanic significance to the citizenship or residence of the parties, and there is no inflexible rule . . . ." (Emphasis omitted; internal quotation marks omitted.) *Vargas* v. *General Electric Co.*, Superior Court, Complex Litigation Docket, judicial district of Stamford-Norwalk, Docket No. X08-CV-08-5007137-S (April 30, 2010, *Jennings, J.T.R.*), citing *Pollux Holding, Ltd.* v. *Chase Manhattan Bank*, 329 F.3d 64, 73 (2d Cir. 2003). See also *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 457 n.2 (directing that case be dismissed based on forum non conveniens despite fact that three of the seven corporate defendants were headquartered in Connecticut, the forum selected by the plaintiffs); *Skidmore* v. *Gateway Western Railway Co.*, 366 Ill. App. 3d 238, 241, 852 N.E.2d 857, app. denied, 222 Ill. 2d 601, 861 N.E.2d 664 (2006) ("the fact that the defendant [is] headquartered and did business in [the plaintiff's chosen forum] is not dispositive in a *forum non conveniens* analysis" [emphasis in

---

The court does not need to resolve this issue here as, whether it applies firm or lessened, readjusted downward pressure of the judicial "thumb," in favor of the plaintiffs' choice of forum, the defendant's motions must be denied.

original]). Nevertheless, the fact that, in these matters, the sole defendant is headquartered here constitutes some indication that Connecticut is a convenient forum. See, e.g., *Resource Mortgage Banking, Ltd.* v. *Cityscape Financial Corp*., Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-97-0162269-S (February 27, 1998, *Lewis, J.*) (21 Conn. L. Rptr. 406, 408) (granting motion to dismiss and distinguishing *Picketts* on the ground that "the defendant in that case had its principal place of business, its corporate headquarters, in Connecticut and thus had chosen this state as the most convenient place from which to conduct [its] worldwide enterprises" [internal quotation marks omitted]). see also *Stangvik* v. *Shiley Inc.*, 54 Cal. 3d 744, 755, 819 P.2d 14 (1991) (sitting en banc, Supreme Court of California holding that, under California law, the "[d]efendant's residence is also a factor to be considered in the balance of convenience. If a corporation is the defendant, the state of its incorporation and *the place where its principal place of business is located is presumptively a convenient forum*." [Emphasis added.]).[8]

[8] Although a corporation headquartered in a plaintiff's chosen forum is not prohibited from invoking the doctrine, one court has opined that "[a] forum non conveniens argument coming from a party sued where he resides is both 'puzzling' and 'strange.'" (Emphasis omitted.) *Cardoso* v. *FPB Bank*, 879 So. 2d 1247, 1250, rehearing denied (Fl. Dist. Ct. App. 2004). See also *Lony* v. *E.I. Du Pont de Nemours & Co*., 935 F.2d 604, 608 (3d Cir. 1991) ("This case is puzzling in that frequently the forum non conveniens issue is raised by a defendant sued away from home who seeks to convince the court that the balance of relevant factors should be tipped against requiring it to defend in a forum far from its home jurisdiction. . . . Here, in contrast, [the defendant] which is headquartered in [the plaintiff's chosen forum], and is the largest employer in that [forum], seeks to move the action against it to a forum more than 3,000 miles away." [Citations omitted; emphasis omitted.]); *Cresswell* v. *Prudential-Bache Securities, Inc*., 580 F. Supp. 55, 58 (S.D.N.Y. 1984) ("Although the great majority of the facts at issue here concern [the defendant's] employees in Europe, [the defendant] is a United States corporation *headquartered in New York City*. . . . Considering all

C

With the foregoing principles in mind, the court turns to a consideration of the relevant forum non conveniens factors. Under *Durkin*, Connecticut courts use a "four step process for examining forum non conveniens claims . . . . First, the court should determine whether an adequate alternative forum exists that possesses jurisdiction over the whole case. . . . Second, the court should consider all relevant private interest factors with a strong presumption in favor of—or, in the present case, a weakened presumption against disturbing—the plaintiffs' initial choice of forum. . . . Third, if the balance of private interest factors is equal, the court should consider whether any public interest factors tip the balance in favor of trying the case in the foreign forum. . . . Finally, if the public interest factors tip the balance in favor of trying the case in the foreign forum, the court must . . . ensure that [the] plaintiffs can reinstate their [action] in the alternative forum without undue inconvenience of prejudice." (Citations omitted; internal quotation marks omitted..) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 466.

III

A

The court begins with the existence of an adequate alternative forum. "Because the doctrine of forum non conveniens is not jurisdictional, any inquiry into its applicability presupposes at least two forums in which the defendant[s] [are]

---

the factors, the balance in this matter does not tip strongly enough to call for rejection of the plaintiffs' choice of forum [in the Southern District of New York.]" [Citation omitted; emphasis added.]).

amenable to process. . . . *The court, as a threshold matter, must therefore decide whether an adequate alternative forum exists*." (Citation omitted; emphasis added; internal quotation marks omitted.) *Picketts* v. *International Playtex, Inc.*, supra, 215 Conn. 504 n.13. "[A] defendant has the burden of establishing that an adequate alternative forum exists and that the relevant factors favor litigating in the alternative forum. . . . If a defendant fails to carry this burden, the forum non conveniens motion must be denied regardless of the degree of deference accorded [the] plaintiff's forum choice. . . . An alternate forum is adequate if the defendants are amenable to service of process there, and if it permits litigation of the subject matter of the dispute. . . . It is well established that an alternative forum need not have identical causes of action or remedies—or, more generally, law as favorable to the plaintiff's chance of recovery as the chosen forum—to be adequate. . . . However, a forum may be inadequate if the remedy it offers is so clearly inadequate or unsatisfactory that it is no remedy at all . . . or if there is a complete absence of due process or an inability . . . to provide substantial justice to the parties in the alternative forum . . . ." (Internal quotation marks omitted.) *DeCicco* v. *Dynata, LLC*, 225 Conn. App. 725, 740, 317 A.3d 223, cert. granted, 350 Conn. 916, 325 A.3d 215 (2024), citing *Owens* v. *Turkiye Halk Bankasi S.A.*, United States Court of Appeals, Docket No. 21-610-cv (2d Cir. May 2, 2023), cert. denied, ___ U.S. ___, 144 S. Ct. 551, 217 L. Ed. 2d 293 (2024). See also *Picketts* v. *International Playtex, Inc.*, supra, 215 Conn. 505-06 ("[f]ederal authorities generally limit the threshold inquiry of the adequacy of the alternate forum to those rare instances where the differences in

substantive law are so severe that the inadequate remedy provided by the alternative forum effectively precludes any remedy at all").

In this case, the defendant represents to the court that it "will accept service of process in Colorado and stipulate that, for purpose of this case, it is subject to personal jurisdiction in Colorado." Stanisic Action, Def. Memo in Supp. of Mot. to Dismiss dated June 14, 2024 (Docket Entry No. 1179), p. 7. See also Tr. of Hearing on Mot. to Dismiss dated September 9, 2024, 26(21-24) (defense counsel observing that "[the defendant] has stipulated in its papers to the return of jurisdiction condition. . . . [W]e're fine with that."). This supports a conclusion that Colorado is an adequate alternative forum to litigate these matters. See, e.g., *Mathis* v. *Marriott International, Inc.*, Superior Court, judicial district of New Haven, Docket No. CV-14-6044292-S (September 12, 2014, *Fischer, J.*) (where defendant's averments constituted "affirmative statements that the defendant is amenable to process in and subject to the jurisdiction of Florida," finding that "Florida is an adequate alternative forum to adjudicate this matter").

Moreover, the plaintiffs do not argue that Colorado would bar litigation of the subject matter in dispute, nor do they contend that the remedies available in that state are so clearly inadequate or unsatisfactory that they provide no remedy at all, that dismissal would result in a complete absence of due process, or that the Colorado courts are otherwise unable to provide substantial justice to the parties. Upon the record before the court, the court finds that Colorado, a sister state, is an adequate alternative forum for the litigation of the plaintiffs' claims.

B

Having found that Colorado is an adequate alternative forum, the court turns to a consideration of the several private interest factors pertinent to a forum non conveniens analysis, recalling—with respect to each factor—the presumption against disturbing the plaintiffs' initial choice of forum. "[T]he relevant private interest factors are: (1) the relative ease of access to sources of proof; (2) the availability of compulsory process for the attendance of unwilling witnesses, and the cost of obtaining attendance of willing witnesses; (3) the possibility of viewing the accident scene if such viewing is appropriate to the action; (4) the enforceability of a judgment; (5) the relative advantages and obstacles to a fair trial; and (6) all other practical problems that make the trial of a case easy, expeditious and inexpensive." *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 467. Each of the private interest factors should be examined in turn, "keeping in mind that, consistent with the flexibility necessary in a forum non conveniens analysis, no single factor should be given undue weight." Id. See also *Miller* v. *United Technologies Corporation*, supra, 40 Conn. Supp. 463 ("The private interests concern the practical problems that make trial of a case easy, expeditious and inexpensive and the likelihood of obtaining an enforceable judgment and the relative advantages and obstacles to a fair trial. . . . The list . . . is not set in stone and is not to be rigidly applied; rather, each case turns on its facts." [Citation omitted.]).

Although "a motion for dismissal on the ground of forum non conveniens must be heard on a record that is less specific than we would require for a trial on the

merits"; *Union Carbide Corp.* v. *Aetna Casualty & Surety Co.*, supra, 212 Conn. 321; "[t]he assessment of the relative ease of access to sources of proof and the availability of witnesses for trial generally requires that the trial court become entangled in the merits of the underlying dispute. . . . [T]o examine such factors, the court must scrutinize the substance of the dispute between the parties to evaluate what proof is required, and determine whether the pieces of evidence cited by the parties are critical, or even relevant, to the [plaintiffs'] cause of action and to any potential defenses to the action." (Citation omitted; internal quotation marks omitted.) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 467-68.

i

To begin, the court considers the relative ease of access to sources of proof.

Certainly, ease of access to "documentary and physical evidence favors neither party, so long as it is within the parties' control"; *Can* v. *Goodrich Pump & Engine Control Systems, Inc.*, supra, 711 F. Supp. 2d 260; and, given the state of technology today, the physical location of documents and other evidentiary materials is no longer as meaningful a consideration as it once was to a forum non conveniens analysis. See, e.g., *Erbey Holding Corp.* v. *BlackRock Financial Management, Inc.,* 78 V.I. 206, 344 (2023) ("the physical location of documents and other papers is no longer a compelling factor in a forum non conveniens analysis" [emphasis omitted]). In this case, substantial documentary and physical evidence is likely to be within the parties' control. As for liability, the defendant has documentary and physical evidence relating to the design, manufacture, and marketing of the AR-556 pistol, as well as

the weapon's compliance with federal firearms requirements. The plaintiffs have substantial documentary and physical evidence concerning their damages claims.

Furthermore, and with respect to witnesses within the parties' control, many liability witnesses, who are able to testify about the design, manufacture, and marketing of the defendant's AR-556 pistol, are located in Connecticut or in East Coast states that are closer to Connecticut than Colorado. Presumably, although the plaintiffs are residents of Colorado, and to the extent possible, they will make themselves available to testify in person in Connecticut about damages.

To the extent relevant documents, materials, and witnesses are outside of the parties' control, the parties will be able to develop facts in discovery necessary to the prosecution, defense, and presentation of these matters, and access to sources of proof will be relatively easy where sources of proof are located in several different state jurisdictions, including Connecticut. This is not a situation where a failure to dismiss will render access to sources of proof unduly burdensome or insurmountable, as may be the case where most evidence is located in a foreign nation. See *DeCicco* v. *Dynata, LLC*, Superior Court, Complex Litigation Docket, judicial district of Waterbury, Docket No. X06-CV-20-6052136-S (September 12, 2022, *Bellis, J.*), aff'd, 225 Conn. App. 725, 317 A.3d 223 (2024) (dismissing case based on forum non conveniens where substantial relevant proof was located in the Philippines, and "the Philippines is not a signatory to the Hague Convention on the Taking of Evidence Abroad in Civil or

Commercial Matters"[9]); *Can* v. *Goodrich Pump & Engine Control Systems, Inc.*, supra, 711 F. Supp. 2d 260 (dismissing case based on forum non conveniens and noting that "the 'sources of proof' that will be required in this air-crash negligence case are clearly located in Turkey"); *LaSala* v. *Bank of Cyprus Public Co. Ltd.*, 510 F. Supp. 2d 246, 259-60 (S.D.N.Y. 2007) (granting forum non conveniens dismissal where "the vast majority of the evidence appears to be in Cyprus . . . ."; "That the overwhelming majority of witnesses resides in Cyprus . . . weighs significantly in favor of Cyprus."; and "Documentary evidence also appears to be based predominantly in Cyprus."). See also *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 470 ("[t]he accessibility of evidence in the present case is affected by the operation of *international pretrial discovery procedures*" [emphasis added]).[10]

Here, Connecticut, as well as the states of Colorado, Florida, New York, and North Carolina, have all adopted versions of the Uniform Interstate Depositions and Discovery Act (UIDDA). See General Statutes § 52-656 et seq. ("Connecticut Interstate Depositions and Discovery Act"); COLO. REV. STAT. ANN. § 13-901.5-101 (West 2024) ("Uniform Interstate Depositions and Discovery Act"); FLA. STAT. ANN. § 92.251 (West 2024) ("Uniform Interstate Depositions and Discovery Act"); N.Y. C.P.L.R. 3119 (CONSOL. 2022) ("Uniform interstate depositions and discovery"); N.C.

---

[9] Here, the court is referring to the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, March 18, 1970, 23 U.S.T. 2555, T.I.A.S. No. 7444 (Hague Convention).

[10] "Although the Hague Convention guides and expedites the procurement of evidence in international disputes, its operation has been called 'far from perfect.'" *Durkin* v. *Intevac, Inc.*, 258 Conn. 454, 470, 782 A.2d 103 (2001).

GEN. STAT. § 1F-1 et seq. ("North Carolina Interstate Depositions and Discovery Act"). According to the Uniform Law Commission, which promulgated the UIDDA in 2007, "[t]he goal of the UIDDA is to make it more efficient and inexpensive to depose out-of-state individuals and to produce discoverable materials located out of the trial state. . . . The [UIDDA] requires minimal judicial oversight and eliminates the need for obtaining a commission or local counsel in the discovery state, letters rogatory, or the filing of a miscellaneous action during the discovery phase of litigation." See The Uniform Interstate Depositions and Discovery Act, A Summary.[11] See also *Catalina Marketing Corp.* v. *Hudyman*, 459 N.J. Super. 613, 618, 212 A.3d 997 (App. Div. 2019) ("[t]he intent of the UIDAA [is] to set[] forth a uniform procedure for subpoenaing the depositions of out-of-state individuals and the production of discoverable materials located outside of the trial state whereby a subpoena issued by a court in the trial state [or forum state] is then enforced by the clerk of a court in the discovery state [or foreign jurisdiction]" [internal quotation marks omitted]).

Although the state of New Hampshire has not adopted the uniform act, the parties have access to sources of proof located in that jurisdiction through the commission process. See Practice Book § 13-28 (a) ("[i]n any other state or country, depositions for use in a civil action, . . . within this state shall be taken before . . . a person commissioned by the court before which such action or proceeding is pending,

---

[11] Uniform Law Commission, "The Uniform Interstate Depositions and Discovery Act, A Summary," (uploaded October 24, 2019, 10:59 A.M. CT), available at https://www.uniformlaws.org/committees/community-home?communitykey=181202a2-172d-46a1-8dcc-cdb495621d35 (last visited February 24, 2025).

or when such court is not in session, by any judge thereof"); N.H. REV. STAT. ANN. § 517-A:1 (II) ("[w]henever any . . . commission is issued out of any court of record in any other state, . . . witnesses may be compelled to appear and testify in the same manner and by the same process and proceeding as may be employed for the purpose of taking testimony in proceedings pending in this state"). Moreover, the only New Hampshire-based witness identified by the parties is Mark Gurney, who still works for the defendant as its director of product management. As such, obtaining Gurney's deposition testimony should be relatively straightforward.

In sum, the court finds that some sources of proof are located in Connecticut, some in Colorado, and some in other state jurisdictions. Any difficulties faced by the parties in accessing and developing proof outside of this state are minimized by the UIDDA and existing commission mechanisms. See *Erbey Holding Corp.* v. *BlackRock Financial Management, Inc.,* supra, 78 V.I. 344 ("Obtaining documents from persons, businesses, or organizations located [in several different states] should not be burdensome because . . . each enacted the . . . UIDDA. . . . The UIDDA provides simple procedures for courts in one state to issue subpoenas for out-of-state document requests . . . . It applies if both states have adopted the Act." [Citations omitted; internal quotation marks omitted.]). Given the foregoing, and the fact that the plaintiffs are entitled to a presumption in favor of their chosen forum, the court concludes that the element of access to proof weighs against dismissal. As noted by one federal court in declining to dismiss a case based on forum non conveniens, "[a]lthough [the defendants] correctly point out that witnesses and evidence in this

case will be located in the [United Arab Emirates], it is equally true that some witnesses and evidence will be located in California. Thus, the parties are likely to suffer some problems accessing sources of proof whether the litigation proceeds in California or in the UAE. . . . Because [the defendants] have the burden of proving that the doctrine of forum non conveniens should apply, this factor weighs against them." *Smallwood* v. *Allied Pickfords, LLC*, United States District Court, Civil Action No. 08-cv-2196 BTM (RBB) (S.D. Cal. September 29, 2009), aff'd, 660 F.3d 1115 (9th Cir. 2011).

ii

The second private interest factor is the availability of compulsory process for the attendance of unwilling witnesses, and the cost of obtaining the attendance of unwilling witnesses. The discussion above—which describes a dispersion of witnesses among several states—reflects that some witnesses will be subject to compulsory process in Connecticut, some in Colorado, and others in neither jurisdiction. Given this dispersion, as well as the presumption that must be imposed in favor of the plaintiff's forum, the court cannot find that this factor weighs in favor of dismissal.

Moreover, in *Picketts*, our Supreme Court emphasized the role that modern technology plays in abating the inconvenience caused by witnesses who may not be subject to compulsory process in a given forum. As noted by the *Picketts* court, "[j]ust as jet travel and satellite communications have significantly altered the meaning of non conveniens; . . . so too has the advent of the videotaped deposition greatly

transformed the meaning of compulsory process in a forum non conveniens calculus. [V]ideotaped depositions frequently make corporeal transportation of foreign witnesses unnecessary." (Citations omitted; internal quotation marks omitted.) *Picketts* v. *International Playtex, Inc.*, supra, 215 Conn. 511.

Picketts was decided almost thirty-five years ago. Additional noteworthy technological advancements—such as the use of videoconferencing platforms that enable parties to testify remotely from other jurisdictions—have occurred since *Picketts* (and *Durkin*) were issued, which serve to reduce or eliminate any inconvenience posed by the inability to compel the attendance of witnesses in a given state forum. As observed by one Superior Court judge, "[t]he court would be remiss . . . not to recognize that the technical strides in communication and remote proceedings, which gradually had been entering into the practice of law and the conduct of trials, have become commonplace. Parties may still prefer 'live' testimony and deposition, but litigants and prospective jurors have become acclimated to a wide range of activities begin conducted remotely, to an extent likely to have been characterized as futuristic as recently as two years ago." *Baylis* v. *Cycling Sports Group, Inc.*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-19-6044429-S (October 13, 2021, *Povodator, J.T.R.*). Thus, "with the advent of modern technology, this court is hard-pressed to find that testimony will be unavailable because the witness is not in the forum state." (Internal quotation marks omitted.) *Mathis* v. *Marriott International, Inc.*, supra, Docket No. CV-14-6044292-S, citing

Fudge v. *Alliant Foodservice, Inc.*, Superior Court, judicial district of Hartford, Docket No. CV-01-0812056-S (July 12, 2012, *Peck, J.*) (32 Conn. L. Rptr. 539, 542).

Put another way, "[f]or purposes of discovery, this court's inability to issue compulsory process is not fatal, because parties can secure subpoenas through the commission process or by using the Uniform Interstate Depositions and Discovery Act . . . . The depositions of those witnesses who are not subject to this court's jurisdiction can be used at trial. That outcome is suboptimal, but manageable." (Citation omitted.) *Focus Financial Partners, LLC* v. *Holsopple*, 250 A.3d 939, 974 (Del. Ch. 2020). See also *Piesker* v. *Price Leasing Corp.*, 187 A.D.3d 1660, 1660-61, 133 N.Y.S.3d 168 (2020) (reversing trial court's dismissal of action based on forum non conveniens and observing that as "both New York and Virginia are parties to the Uniform Interstate Depositions and Discovery Act . . . [the] defendant could, if necessary, depose the subject witnesses in Virginia and thereafter introduce those depositions at trial in lieu of in-person testimony in New York . . ." [citations omitted]).

Despite the foregoing authorities, the court is mindful that "*Picketts* should not be read to support the proposition that technology has replaced the need for personal attendance of witnesses. . . . [W]hen litigants cannot compel personal attendance and [are thus] forced to try their cases on deposition, [this situation] create[s] a condition not satisfactory to the court, jury or most litigants . . . ." (Citation omitted; internal quotation marks omitted.) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 476; accord *DiCicco* v. *Dynata, LLC*, supra, Docket No. X06-UWY-CV-20-6052136-S. However,

given the existence of Connecticut-based witnesses whose testimony is of central importance to these cases, and the defendant's presumptive ability to control the attendance of executives and employees who are not subject to compulsory process in Connecticut, the parties will not be "forced to try their cases on deposition." *DiCicco* v. *Dynata, LLC*, supra, Docket No. X06-UWY-CV-20-6052136-S. The defendant fails to show that the second private interest factor favors dismissal.

iii

The court turns to the possibility of viewing the accident scene, if appropriate. To begin, "[t]his consideration . . . is minor." (Internal quotation marks omitted.) Id., citing *Miller* v. *United Technologies Corp.*, supra, 40 Conn. Supp. 465. In any event, this factor does not support dismissal for several reasons. First, viewing the accident scene is not central to the plaintiff's liability claims. As observed by the plaintiffs, their legal claims against the defendant are based upon design, manufacturing, and marketing decisions relating to the AR-556 pistol, which the plaintiffs claim violated federal and state statutes, as well as common law duties of care. Those decisions were made outside of Colorado, by or under the authority of the defendant's Connecticut-based management. Viewing the scene of the mass shooting is of little to no relevance to the plaintiffs' claims of liability.

Second, and to the extent it is appropriate in connection with other aspects of these cases—such as proof relating to the issues of causation and damages—"viewing the actual accident scene can be adequately substituted with the introduction of evidence such as accident reports, pictures and the corroboration of witnesses."

(Internal quotation marks omitted.) *Mathis* v. *Marriott International, Inc.*, supra, Docket No. CV-14-6044292-S. The defendant does not meet its burden of showing that this factor weighs in favor of dismissal.[12]

iv

The court turns to the enforceability of any judgment that may be rendered by this court. The defendant concedes that this factor is neutral with respect to the forum non conveniens analysis before the court. Stanisic Action, Def. Supp. Memo. (Docket Entry No. 1179), pp. 11-12, citing *Sherwood* v. *Cronin*, Superior Court, judicial district of Hartford, Docket No. CV-14-6048040-S (May 6, 2015, *Peck, J.*) (in ruling on motion to dismiss case based on forum non conveniens, in favor of Massachusetts over Connecticut, holding that "[b]ecause a judgment in either state is subject to domestication in the other, the court regards this as a neutral private interest factor").

v

The next factor is the relative advantages and obstacles to a fair trial. As noted by our Supreme Court, "the relative advantages and obstacles to a fair trial, encompasses *the defendants' ability to implead third parties*." (Emphasis added.) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 477. The defendant concedes that, as the impleading of third parties "is not an issue in the present case," this factor is also "neutral." Stanisic Action, Def. Supp. Memo. (Docket Entry No. 1179), p. 12.

---

[12] In its initial supporting brief, the defendant states that "[i]t is . . . *unclear* whether it will be necessary for the jury to view the scene of the crime." (Emphasis added.) Stanisic Action, Def. Supp. Memo. (Docket Entry No. 1179), p. 11.

The final private interest factor is the existence of all other practical problems that make the trial of a case easy, expeditious, and inexpensive. The defendant makes several arguments in support of its claim that trying these matters in Connecticut would raise practical problems favoring dismissal. These arguments are rejected.

The defendant emphasizes that a governmental investigation of the subject mass shooting occurred in Colorado, and witnesses and materials relevant to that investigation are located in that state. Relying on *Durkin* and *Vargas* v. *General Electric Company*, Superior Court, supra, Docket No. X08-CV-08-5007137-S, the defendant contends, with a rather broad brush, that "courts have . . . held that where there has been a government investigation, the location of that investigation is the favored forum." Stanisic Action, Def. Supp. Memo. (Docket Entry No. 1179), p. 12.

The defendant's argument fails because *Durkin* and *Vargas* are both distinguishable, in several important respects, from the cases now before the court. To begin, both *Durkin* and *Vargas* involved governmental investigations that were conducted in foreign nations, which presented special practical problems not present here. For example, in *Durkin*—a products liability action arising out of a military helicopter collision that occurred in Northern Queensland, Australia—"the Chief of the General Staff of the Australian Army convened a Board of Inquiry (board) to investigate the accident, determine its causes and make recommendations designed to prevent future accidents from occurring. The board conducted investigations,

interviewed 144 witnesses, generated over 7000 pages of records and transcripts and reported its findings." (Footnote omitted.) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 456, 459. While the court in *Durkin* considered several factors in directing a dismissal of the action based on forum non conveniens, it did so, in part, on the ground that, while "[b]oth Australia and the United States are signatories to the [Hague Convention], . . . the Hague Convention contains a provision allowing signatories to opt out of executing letters of request for pretrial discovery of documents. . . . Every signatory to the Hague Convention, with the exception of the United States, has invoked article 23 and opted out of executing letters of request. . . . Thus, it appears that if the case were to be tried in Australia, Connecticut would be bound to execute any letters of request originating in Australia . . . . *On the other hand, if the case were tried in Connecticut, Australia might not execute letters of request from the United States in light of the fact that Australia previously has opted out of executing letters of request under article 23 of the Hague Convention*." (Citations omitted; emphasis added; footnote omitted.) Id., 470-71. Given that both Connecticut and Colorado have adopted versions of the UIDDA, no such obstacle is present here.

Also important to the court's decision in *Durkin*—which involved product liability claims—was the fact that the Australian board of inquiry made an "*unequivocal finding* that the accident was caused by poor planning and implementation, and not by defective products . . . ." (Emphasis added.) *Durkin* v. *Intevac*, *Inc.*, supra, 258 Conn. 469. In addition to the board's "unequivocal finding" on causation, the *Durkin* court emphasized the plaintiffs' failure to offer *any* evidence

against the Connecticut and United States-based designers and manufacturers "to show that that military hardware was defective or was a cause of the accident." Id. Upon such a record, the court highlighted "the importance of access to the board's report and the evidence and statements of witnesses upon which that report was based," all of which were located in Australia. Id.

These facts are distinct from the present matters. For example, while the defendant has submitted proof that the Boulder Police Department conducted an investigation of the incident at issue, the defendant has not introduced any evidence concerning the conclusions, if any, of that investigation—let alone demonstrate that there was an "unequivocal finding" regarding causation, or any other disputed material issue.

As for the *Vargas* case, if the *Vargas* court had not dismissed the matter in favor of another forum, complications even greater than those present in *Durkin* would likely have been encountered by the litigants in accessing and offering proof. *Vargas* involved claims of personal injury and death allegedly caused by radiation treatment for cancer; the treatment took place in San Juan, Costa Rica. *Vargas* v. *General Electric Company*, Superior Court, supra, Docket No. X08-CV-08-5007137-S. As a result of the underlying claims in *Vargas*, a Costa Rican court issued a 750-page investigatory opinion. Id. Importantly, in 2010—at the time the court issued its decision in *Vargas*—Costa Rica was *not* a signatory to the Hague Convention, thereby posing potentially insurmountable difficulties with respect to the discovery and

presentation of evidence from Costa Rican sources.[13] By contrast, in these matters, any practical problems that may arise in connection with the discovery and presentation of evidence uncovered by the Boulder Police Department will be diminished by the fact that Connecticut and Colorado are sister states, and both states have adopted the UIDDA.

In addition, the defendant argues that this action should be dismissed because the plaintiffs are engaged in forum-shopping that should not be countenanced by the court. The defendant contends that, by bringing these actions in Connecticut, the plaintiffs are forum-shopping improperly, namely, in order "to take advantage of the Connecticut Supreme Court's decision in *Soto* v. *Bushmaster Firearms [International], LLC*, 331 Conn. 53, [202 A.3d 262] (2019)." Stanisic Action, Def. Supp. Memo. (Docket Entry No. 1179), p. 13.

In addressing the defendant's forum-shopping claim, this court recalls the Second Circuit's observation that judges "should be mindful that, just as plaintiffs sometimes choose a forum for forum-shopping reasons, defendants also may move for dismissal under the doctrine of forum non conveniens not because of genuine concern with convenience but because of similar forum-shopping reasons. [Trial] courts should therefore arm themselves with an appropriate degree of skepticism in assessing whether the defendant has demonstrated genuine inconvenience and a

[13] Costa Rica acceded to the Hague Convention in 2016; HCCH, Status Table, (last updated June 23, 2023), available at https://www.hcch.net/en/instruments/conventions/status-table/?cid=82 (last visited February 24, 2024); and the convention entered into force between Costa Rica and the United States in 2019. See HCCH, Acceptances of Accessions, Costa Rica, available at https://www.hcch.net/en/instruments/conventions/status-table/acceptances/?mid=1335 (last visited February 24, 2025).

clear preferability of the foreign forum." (Emphasis omitted.) *Iragorri* v. *United Technologies Corp.*, 274 F.3d 65, 75 (2d Cir. 2001); accord *Gross* v. *British Broadcasting Corp.*, 386 F.3d 224, 233 (2d Cir. 2004). See also *Frederiksson* v. *HR Textron, Inc.*, 484 Fed. Appx. 610, 612-13 (2d Cir. 2012) (in action brought by non-U.S. citizens against Connecticut corporation, Second Circuit vacating district court's forum non conveniens dismissal and observing that, "when an American defendant claims that a foreign forum is more convenient than a home forum, some suspicion of forum shopping must arise."). As stated by the plaintiffs in their objection to the defendant's motions, in assessing the defendant's forum-shopping argument, the court "should also consider [the defendant's] likely motives for seeking to [transfer] this case to Colorado. [The defendant] has clearly signaled its intent to invoke a Colorado law statutory defense that, until its recent repeal, protected gun industry defendants from may tort claims." Stanisic Action, Pl. Opp. Memo. (Docket Entry No. 1183), p. 22, citing COLO. REV. STAT. § 13-21-501 et seq.

With the foregoing in mind, the court concludes that the defendant fails to demonstrate impermissible forum-shopping by the plaintiffs. In and of themselves, the procedural and substantive legal advantages that may be presented by a particular forum do not necessarily indicate impermissible forum shopping requiring dismissal—rather, and as noted above, the plaintiffs' choice should be respected unless equity weighs strongly in favor of dismissal. See *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 464-65 ("[t]he [plaintiffs'] choice of forum, which may well have been chosen precisely because it provides the plaintiff[s] with certain procedural or

substantive advantages, should be respected unless equity weighs strongly in favor of the defendant[s]" [Internal quotation marks omitted]).

In addition, the defendant's forum-shopping argument is weakened by the fact that the defendant is headquartered in Connecticut, the jurisdiction from which it has chosen to conduct its operations. While, and as noted above, this fact is not dispositive of the forum non conveniens analysis, as the plaintiffs have otherwise demonstrated a sufficient connection between their claims and this forum, the defendant has not shown that these actions should be dismissed based upon improper forum shopping.

Based on the discussion above, the court finds that, overall, the private interest factors weigh against dismissal of these actions. As stated rather succinctly by one Superior Court judge, "[t]he plaintiff has chosen this forum, the [defendant's] corporate headquarters is in this state[,] and hence the motion to dismiss on forum non conveniens grounds is denied." *Capitol Risk Concepts, Ltd.* v. *Quark Expeditions, Inc.*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-98-0165633-S (June 15, 1999, *Lewis, J.*).

C

Although the court concludes that the private interest factors weigh against a dismissal of these actions, thereby obviating the need for an analysis of the public interest factors; *Vargas* v. *General Electric Company*, supra, Docket No. X08-CV-08-5007137-S ("[s]ince the private interest factors tip the balance in favor of [forum non

conveniens] dismissal, a balancing of public interest factors is not strictly required"); the court addresses the public interest factor arguments raised by the parties.

"The public interest factors include: (1) administrative difficulties for the courts, i.e., court congestion and the court's familiarity with the applicable law; (2) imposing the burden of jury duty on people of a community with no relation to the litigation; (3) holding trial in the view of interested persons; and (4) having matters decided in their local forum." *Miller* v. *United Technologies*, supra, 40 Conn. Supp. 466. See also *Durkin* v. *Intevac, Inc*., 258 Conn. 462 n.8 (listing factors and noting that "[t]he trial court quoted *Miller* . . . , in listing these factors, which, in turn, cites, among other cases, *Gulf Oil* . . ." [citations omitted]).

The defendant begins by contending that retaining these cases in Connecticut will pose administrative difficulties for the court, because trial is likely to "be especially lengthy or complex." (Internal quotation marks omitted.) See Stanisic Action, Pl. Supp. Memo. (Docket Entry No. 1179), p. 15. In advancing this argument, the defendant appears to overlook the fact that these matters are pending before a special session of our state Superior Court—namely, the Complex Litigation Docket—which is designed to conduct lengthy and complex trials and is accustomed to doing so. "[T]he central purpose of the Complex Litigation Docket is to assist the Civil Division as a whole to handle its caseload fairly and efficiently. This, of course, is accomplished by removing from the ordinary flow of civil business those especially difficult, complicated cases that require special handling to be sure they are promptly and competently adjudicated without compromising the [c]ourt's ability to handle the

other cases on its docket with care and dispatch." *Doe* v. *Yale University*, 47 Conn. Supp. 329, 333-34, 791 A.2d 727 (2000). See also State of Connecticut, Judicial Branch, "Facts About The Connecticut Judicial Branch Complex Litigation Docket," (last revised August 29, 2024), https://jud.ct.gov/external/super/FACTS_090224.pdf (last visited February 27, 2025) ("The Complex Litigation Docket has been established by the Chief Court Administrator to resolve some of the most challenging civil cases facing our courts today. . . . Generally, [cases considered for placement on the Complex Litigation Docket] involve multiple litigants, legally intricate issues or claims for damages that could total millions of dollars."). The defendant's argument that adjudicating these matters will impose undue administrative difficulties on this court is unfounded.

The defendant also contends that Colorado law will likely apply to this dispute and that it will be burdensome for this court to apply the law of another state. Whatever the merits of the defendant's underlying choice-of-law argument, the claim that applying Colorado law will be onerous discounts the principle that "Connecticut courts are quite capable of applying foreign law when required to do so and it would be improper to invoke the doctrine of forum non conveniens solely to avoid a choice of law analysis." *Picketts* v. *International Playtex, Inc.*, supra, 215 Conn. 512. "[I]t is well established that considerations arising out of conflicts of law are not dispositive for the purpose of dismissals for forum non conveniens. . . . [T]he mere fact that the court is called upon to determine and apply the foreign law does not present a legal problem of the sort which would justify the dismissal of a case otherwise properly

before [it]." (Citation omitted; internal quotation marks omitted.) Id. Thus, "[t]he possible application of foreign law is insufficient justification to grant the motion to dismiss on the basis of forum non conveniens." *Schwartz* v. *Bitter End Yacht Club International, Inc.*, Superior Court, judicial district of New Haven, Docket No. CV-97-0398306-S (May 18, 1998, *Zoarski, J.T.R.*).

Finally, as for Connecticut's interest in this litigation, our Supreme Court has observed that "Connecticut continues to have a responsibility to those foreign plaintiffs who properly invoke the jurisdiction of this forum . . . *especially in the somewhat unusual [situation in which] it is the forum resident who seeks dismissal*." (Emphasis added; internal quotation marks omitted.) *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 465. This "somewhat unusual" situation is present here.

Connecticut has a legal interest in adjudicating claims, involving a Connecticut-based actor, whose alleged wrongful conduct purportedly caused injury to persons in another state jurisdiction. As one federal judge aptly noted, "Connecticut has an interest in regulating unfair trade practices undertaken from the state by a business domiciled in the state, *even where the effects of those practices may have their primary impact out of state or a choice of law analysis of a given transaction [or occurrence] favors the application of out-of-state law*." (Emphasis added.) *Country Club Associates* v. *Shaw's Supermarkets, Inc.*, 643 F. Supp. 2d 243, 253 (D. Conn. 2009). See also *Adams* v. *Aircraft Spruce & Specialty Co.*, 345 Conn. 312, 345, 284 A.3d 600 (2022) (in discussing element of case linkage in jurisdictional due process analysis, court noting that "[t]he forum state's interest is at its zenith

when . . . tortious conduct is committed in the forum," and observing that the "state has an especial interest in exercising judicial jurisdiction over those who commit torts within its territory" [citation omitted; internal quotation marks omitted]); *Stangvik* v. *Shiley Inc.*, supra, 54 Cal. 3d 759 (Supreme Court of California observing that "California has a strong interest in regulating the conduct of manufacturers that produce products in this state which cause injury to persons in other jurisdictions").

CONCLUSION

For the foregoing reasons, the defendant fails to demonstrate that it is entitled to the "drastic remedy" of dismissal based on forum non conveniens; *Durkin* v. *Intevac, Inc.*, supra, 258 Conn. 464; and the defendant's motions to dismiss (No. 1178 in the Stanisic Action; No. 150 in the Getz Action) are hereby DENIED.

PIERSON, J.