DOCKET NO: X10-UWY-CV 23-6072789 S
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RADMILO STANIŠIĆ, REPRESENTATIVE OF THE ESTATE OF NEVEN STANIŠIĆ, ET AL., *Plaintiffs*, v. STURM, RUGER & COMPANY, INC., *Defendant.*	SUPERIOR COURT COMPLEX LITIGATION DOCKET AT WATERBURY
NATHANIEL GETZ, EXECUTOR OF THE ESTATE OF SUZANNE FOUNTAIN, *Plaintiff*, v. STURM, RUGER & COMPANY, INC., *Defendant.*	MAY 21, 2025

PLAINTIFFS' MEMORANDUM OF LAW IN OPPOSITION TO DEFENDANT'S MOTION TO STRIKE

The Plaintiffs respectfully submit this memorandum in opposition to Defendant Sturm, Ruger & Company, Inc.'s Motions to Strike Plaintiffs' Amended Complaints. [*Stanišić* Entry Nos. 1211.00, 1212.00; *Getz* Entry Nos. 185.00, 186.00.]

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INTRODUCTION

Defendant Sturm, Ruger & Company's ("Ruger's") Motion to Strike is its fourth baseless attempt to avoid answering for its design, marketing, and illegal sale of the short-barreled rifle used to kill Plaintiffs' family members and loved ones. In its motion, Ruger recycles old arguments that another judge of this Court has already rejected, exaggerates the reach of the caselaw that it cites, and misdescribes the factual and legal bases for Plaintiffs' claims.

First, Ruger argues—wrongly—that the statute of limitations bars Plaintiffs' Amended Complaint under the relation back doctrine because the Original Complaint did not provide notice of the design-based portion of Plaintiffs' cause of action. Not only has a near carbon copy of this argument already been rejected by Judge Bellis after full briefing, but it also mischaracterizes and ignores allegations from Plaintiffs' Original Complaint—including express allegations, on the second page of the Original Complaint, that Ruger designed the AR-556 short-barreled rifle used in the shooting with "an altered barrel and stock to evade federal classification as a rifle." Original Complaint ("Orig. Compl.") ¶ 10.[1] Ruger's assertion that "nothing in the Original Complaint required consideration of the firearm's design," see Ruger's Memorandum of Law in Support of Motion to Strike [*Getz* Entry No. 186.00] ("Ruger Br.") at 6, is specious at best.

Second, Ruger's contention that the Protection of Lawful Commerce in Arms Act ("PLCAA") blocks Plaintiffs' claims should be swiftly rejected. Ruger not only misstates the nature of Plaintiffs' claims, but it also ignores a mountain of caselaw directly contrary to its position, mischaracterizes the cases that it does cite, and vastly overstates PLCAA's reach.

[1] Citations to prior filings refer to those in the *Getz* matter. For the sake of clarity and consistency with Ruger's citation practice (Ruger Br. 4 n.2), Plaintiffs here use the term "Original Complaint" to refer to the pleading filed in the *Getz* matter on March 14, 2023.

Third, Plaintiffs have more than sufficiently alleged their claims under the Connecticut Unfair Trade Practices Act ("CUTPA"). Plaintiffs have clearly satisfied CUTPA's standing requirement, which, under controlling precedent, requires no more than a direct injury proximately caused by Ruger's violations of CUTPA. Likewise, Plaintiffs have adequately alleged proximate cause for their CUTPA-based claim at this early stage of the case.

For the reasons stated herein, Ruger's Motion to Strike should be denied on all grounds.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The Court is already familiar with the allegations in this case: Ruger's knowing violations of federal and state laws allowed Ahmad Al-Aliwi Alissa ("the Shooter") to purchase an illegal, unregistered short-barreled rifle that Ruger improperly designed, sold, and marketed as an "AR-556 Pistol" to evade the laws that apply to such weapons. The Shooter used Ruger's AR-556 Pistol to murder ten people at a King Soopers grocery store only six days after he bought it. See Amended Complaint [Entry No. 120.00] ("Am. Compl.") ¶¶ 19–22, 93–109; Orig. Compl. ¶ 4.[2]

Federal law imposes heightened regulation on manufacturers, sellers, and purchasers of short-barreled rifles, over and above the baseline federal regulation of all firearms. Orig. Compl. ¶¶ 10–15; Am. Compl. ¶¶ 39–53. Notably, prospective civilian retail purchasers must complete a multi-step application process and receive approval from the Bureau of Alcohol, Tobacco, Firearms and Explosives (the "ATF") before buying a short-barreled rifle. Am. Compl. ¶¶ 52–53. At the time of the Shooter's purchase, this process took approximately seven months to complete. *Id*. This rigorous oversight is commensurate with the elevated danger presented by short-barreled rifles. The weapon at issue here, for instance, resembles full-length AR-15-style rifles in function

[2] For ease of reference, Plaintiffs refer to the weapon at issue by the model name assigned to it by Ruger, "AR-556 Pistol." But as Plaintiffs allege, the weapon is not a pistol and is in fact a short-barreled rifle.

and firepower, but offers greater concealability and maneuverability due to its shorter barrel. Am. Compl. ¶¶ 32–38, 43; see also Orig. Compl. ¶¶ 10–12. As alleged in both the Original and Amended Complaints, Ruger sought to evade this heightened federal regulation by designing, marketing, and selling short-barreled rifles with alternative shoulder stocks and under the model name "AR-556 Pistol." Am. Compl. ¶¶ 5–13, 21, 56–82; Orig. Compl. ¶¶ 9–15. Ruger engaged in this evasive conduct knowing that its AR-556 short-barreled rifles would be purchased by consumers, like the Shooter, who did not complete the proper screening. Am. Compl. ¶ 14; Orig. Compl. ¶ 27. To maintain the charade, Ruger deceptively marketed and sold the AR-556 short-barreled rifles as "pistols." Am. Compl. ¶ 112; see also Orig. Compl. ¶¶ 13, 15. At the same time, Ruger's direct and indirect marketing promoted assaultive and/or militaristic uses of the AR-556 Pistols and their similarity to rifles. Am. Compl. ¶¶ 34, 112(e); Orig. Compl. ¶¶ 15, 17, 37. It was a likely and foreseeable consequence of Ruger's conduct that a shooter with malintent would be attracted to and misuse the Ruger AR-556 short-barreled rifle. Am. Compl. ¶ 124.

That is what happened here. Ruger's conduct enabled and expedited the Shooter's purchase of his short-barreled rifle of choice in one day, outside the lengthy federal application process. Am. Compl. ¶¶ 99–109. Had Ruger followed federal law, the Shooter would not have obtained the weapon he used, and certainly not in time to perpetrate the shooting on March 22, 2021. Am. Compl. ¶ 105. Ruger's conduct proximately caused the death and related injuries of Neven Stanišić, Denny Stong, Lynn Murray, Jody Waters, Kevin Mahoney, and Suzanne Fountain, as well as four other victims. Am. Compl. ¶¶ 109, 148–52; see also Orig. Compl. ¶¶ 39–43 (alleging that Ruger's conduct, including alleged evasion and marketing conduct, proximately caused the harm).

The procedural history of this case is marked by Ruger's attempts to delay and obstruct the

action. In the two years since this litigation commenced, Ruger has attempted—and failed—to prevent the case from being heard by this Court by each of the following means:

- Objecting to Plaintiffs' motions to amend [*Getz* Entry No. 129.00], making the exact same timeliness arguments that they make in this motion to strike;
- Attempting to remove it to federal court [*Getz* Entry No. 142.00]; and
- Moving to dismiss based on the doctrine of *forum non conveniens* [*Getz* Entry No. 150.00].

These motions have all been denied in full, by three different judges in two different courts.[3] Ruger now brings this fourth meritless challenge. For the reasons set forth herein, we respectfully urge this Court to deny Ruger's motion to strike so that Plaintiffs can move forward with their case and hold Ruger accountable for its illegal conduct that resulted in tragic violence.

LEGAL STANDARD

It is "well established" that, in adjudicating a motion to strike, the Court must "take the facts to be those alleged in the complaint" and "construe the complaint in the manner most favorable to sustaining its legal sufficiency." *Coppola Constr. Co.* v. *Hoffman Enters. Ltd. P'ship*, 309 Conn. 342, 350, 71 A.3d 480 (2013). "[P]leadings will be construed in favor of the pleader if there is any ambiguity as to whether relief could be granted under the pleading." *Royal Indem. Co.* v. *Terra Firma, Inc*., 50 Conn. Supp. 563, 577, 948 A.2d 1101 (Super. Ct. 2006), aff'd, 287 Conn. 183, 947 A.2d 913 (2008). "[A]ll well-pleaded facts and those facts necessarily implied from the allegations are taken as admitted," and "pleadings must be construed broadly and realistically, rather than narrowly and technically." *Coppola Constr. Co.* v. *Hoffman Enters. Ltd. P'ship*, supra, 309 Conn. 649. In other words, a "contextualized reading is required . . . by the liberal pleading

[3] The Court overruled the request to amend in *Getz* Entry No. 129.20; the federal district court granted Plaintiffs' motion to remand to state court in *Getz* v. *Sturm, Ruger & Co., Inc.*, No. 3:23-CV-1338(RNC), 2024 WL 1793670, *11 (D. Conn. April 25, 2024); and this Court denied Ruger's motion to dismiss in *Getz* Entry No. 179.00.

standard applicable to a motion to strike," and a complaint's allegations must be construed in light of the "larger constellation of factual allegations" in the complaint as a whole. *Hanes* v. *Solgar, Inc*., Superior Court, judicial district of New Haven, Docket No. NHCV156054626S, 2017 WL 1238417, *3 (January 13, 2017). It is especially important to apply this standard here where Plaintiffs allege a CUTPA claim, which is subject to a liberal construction. See *Fink* v. *Golenbock*, 238 Conn. 183, 213, 680 A.2d 1243, 1259-60 (1996); *Commc'ns Sys., Inc.* v. *Ceruzzi*, Superior Court, judicial district of Stamford/Norwalk, Docket No. CV960153343S, 2002 WL 207557, *4 (January 17, 2002) (denying a motion to strike a CUTPA claim and noting the "liberal construction of CUTPA and the standard for a motion to strike").

ARGUMENT

I. PLAINTIFFS' AMENDED COMPLAINT RELATES BACK TO THEIR ORIGINAL COMPLAINT AND IS NOT BARRED BY THE STATUTE OF LIMITATIONS.

Ruger asks this Court to grant relief that Judge Bellis has already denied, based on the same arguments that Judge Bellis has already rejected. A second denial is warranted here because Judge Bellis's decision is the law of the case and because, on the merits, Judge Bellis correctly determined that the Amended Complaint relates back to the Original Complaint.

A. The Amended Complaint's Relation Back to the Original Complaint Is the Law of the Case.

Plaintiffs requested leave to amend their complaints on August 8, 2023, after expiration of the statute of limitations for wrongful death claims (General Statutes § 52-555). Ruger objected on the sole ground that the amendments did not relate back and were thus untimely. [*Getz* Entry No. 129.00.] The parties fully briefed the same issues raised here—indeed, Ruger's Objection reviewed the same case law that it re-cites now, often using the very same sentences and paragraphs of argumentation. Compare Obj. to Req. to Amend 1–5, 7–12 with Ruger Br. 3–15.

Presented with the same arguments, Judge Bellis overruled Ruger's objection in a one-word order. [*Getz* Entry No. 129.20.] Contrary to Ruger's contention (Ruger Br. 6 n.5), and even though no explanatory opinion was issued, Judge Bellis necessarily determined that the amendments related back to Plaintiffs' Original Complaint because "the trial court has no discretion to allow an amendment" if the "statute of limitations has expired and an amended pleading does not relate back to the earlier pleading." *Briere* v. *Greater Hartford Orthopedic Grp, P.C.*, 325 Conn. 198, 206 n.8, 157 A.3d 70 (2017).[4]

Under the law of the case doctrine, "[w]here a matter has previously been ruled upon interlocutorily, the court in a subsequent proceeding in the case may treat that decision as the law of the case, if it is of the opinion that the issue was correctly decided, in the absence of some new or overriding circumstance." *Signore* v. *Signore*, 110 Conn. App. 126, 133, 954 A.2d 245 (2008) (alteration in original); see also *Wasko* v. *Manella*, 87 Conn. App. 390, 395–96, 865 A.2d 1223 (2005). It is "the practice of judges generally to refuse to reopen what has been decided" and "[n]ew pleadings intended to raise again a question of law which has been already presented on the record and determined adversely to the pleader are not to be favored." *Breen* v. *Phelps*, 186 Conn. 86, 99, 439 A.2d 1066 (1982). "Underlying the law of the case doctrine, is the view that [a] judge should hesitate to change his own rulings in a case and should be even more reluctant to

[4] Ruger cites the Superior Court's pre-*Briere* opinion in *Bundrick* v. *Moran*, Superior Court, judicial district of Ansonia-Milford, Docket No. AANCV126010492, 2014 WL 5286869, *2 (September 15, 2014), but that decision must yield to the subsequent, clear instruction of the Supreme Court that trial courts have no discretion to grant amendments that do not relate back after the expiration of the statute of limitations. *Bundrick* is also procedurally distinguishable. There, the court expressly stated that the statute of limitations issue "was left for specific argument and thus followed with the motion for summary judgment." *Id.*, *1 n.1. Here, in contrast, Judge Bellis did not reserve any issues; she overruled Ruger's objection, and thus, rejected its arguments. [*Getz* Entry. No. 129.20.]

overrule those of another judge." *Wasko* v. *Manella*, 87 Conn. App. 390, 395, 865 A.2d 1223 (2005) (alteration in original) (internal quotation marks and citation omitted).

Here, Ruger's Motion provides no new or overriding circumstance to justify overruling Judge Bellis's correct decision. This is nothing more than an attempt to get a second bite at the apple by disguising a motion for reconsideration as a motion to strike, but without attempting to meet the high standard for reconsideration. Cf. *Opoku* v. *Grant*, 63 Conn. App. 686, 692–93, 778 A.2d 981 (2001) (motion to reconsider inappropriate unless the court overlooked a controlling principle of law, misapprehended facts, or the ruling contained any other deficiencies). And as detailed herein, Ruger's arguments fail on the merits, as they did nearly two years ago.

B. The Amended Complaint Pleads the Same Cause of Action.

The relation back doctrine is broad and intended to "serve the purpose of promoting substantial justice." *Briere* v. *Greater Hartford Orthopedic Grp, P.C.*, supra, 325 Conn. 210. A plaintiff may amend his or her complaint to "amplify or expand" the allegations as long as the "identity of the cause of action remains substantially the same." *Wagner* v. *Clark Equipment Co.*, 259 Conn. 114, 129, 788 A.2d 83 (2002). "A cause of action is that single group of facts which is claimed to have brought about an unlawful injury to the plaintiff and which entitles the plaintiff to relief." *Briere* v. *Greater Hartford Orthopedic Grp, P.C.*, supra, 325 Conn. 207. The *Briere* Court emphasized that where the amended claims fall within the same "transaction or occurrence," the new claims relate back. *Id.*, 210–211; see also *Grenier* v. *Comm. of Transportation*, 306 Conn. 523, 559, 51 A.3d 367 (2012). "A change in, or addition to, a ground of negligence or an act of negligence arising out of the single group of facts which was originally claimed . . . does not change the cause of action." *Briere* v. *Greater Hartford Orthopedic Grp, P.C.*, supra, 325 Conn. 207. If an alternate theory of liability may be supported by the original factual allegations, then

that does not negate the "identity of the cause of action" or bar the application of the relation back doctrine. *Gurliacci* v. *Mayer*, 218 Conn. 531, 549, 590 A.2d 914 (1991).

Plaintiffs' Original and Amended Complaints assert the same cause of action—that is, the same single group of facts that caused Plaintiffs' injuries—arising from the same conduct: Ruger's design, improper classification, marketing, and sale of the AR-556 short-barreled rifles. Both complaints allege related facts regarding *evasion* of federal regulation through Ruger's design and distribution of the AR-556 Pistols and unfair, deceptive, unscrupulous, and reckless marketing of the same. Am. Compl. ¶¶ 5–13, 16, 21, 56–82; Orig. Compl. ¶¶ 9–15, 17, 26–27. From the outset, Plaintiffs have alleged that:

> The AR-556 pistol variant [of the full-length AR-556 rifle] featured the same rail system as other AR-15 style rifles while having an altered barrel and stock *to evade federal classification* as a rifle[, and that]
>
> Ruger's marketing and sale of the AR-556 pistol with stabilizing braces allowed its weapon to function as a stock-stabilized AR-15 rifle, while *evading regulations* targeted at limiting AR-15-style rifles.

Orig. Compl. ¶¶ 10, 15 (emphasis added). Plaintiffs further alleged that "Ruger marketed its AR-556s knowing that they would be accessed by unscreened consumers." Orig. Compl. ¶ 27. Plaintiffs have thus from the beginning alleged design, marketing, and evasion as the basis for liability under CUTPA, which broadly prohibits "unfair or deceptive acts or practices in the conduct of any trade or commerce." General Statutes § 42-110b(a); see also Am. Compl. ¶¶ 110–118 (CUTPA claim); Orig. Compl. ¶¶ 1–39 (CUTPA claim). In fact, the Original Complaint specifically referenced the "design" of the AR-556 Pistol four different times. Orig. Compl. ¶¶ 9, 11–13. In line with the Original Complaint, the Amended Complaint explains that Ruger designed the weapon to evade federal law and deceptively and unfairly marketed the AR-556 short-barreled rifles as: (1) "pistols" available for lawful civilian purchase, (2) designed like rifles, and (3) having assaultive/militaristic uses. See, e.g., Am. Compl. ¶¶ 22, 34, 112–13, 123.

Thus, while the Original Complaint was more general and placed somewhat greater emphasis on Ruger's marketing conduct—and the proposed Amended Complaint clarifies and expands the allegations relating to the ways in which Ruger evaded federal regulation of short-barreled rifles—neither the design nor the marketing conduct is new or "abandoned" in the Amended Complaint. In both complaints, the design and marketing conduct are described as closely intertwined. See Orig. Compl. ¶¶ 9–15, 17, 26–27; Am. Compl. ¶¶ 6, 14, 21–22, 54–82, 112. The core of Plaintiffs' theory of liability has not changed.[5]

1. The Original Complaint Provided Fair Notice of Plaintiffs' Allegations That Ruger Violated the National Firearms Act and the Gun Control Act.

In the face of the allegations described above, Ruger can hardly contend that it did not receive fair notice of Plaintiffs' allegations that Ruger evaded federal law in designing and marketing the AR-556 Pistol. See *Grenier* v. *Comm. of Transportation*, supra, 306 Conn. 559. Ruger's claim that "nothing in the Original Complaint required consideration of the firearm's design" (Ruger Br. 6) is simply not credible. Indeed, in their Objection to Ruger's Request to Revise the Original Complaint, Plaintiffs stated clearly that they are "specifically alleging that the defendant's design and marketing of this firearm constitutes a violation of CUTPA exposing the defendant to liability." Obj. to Req. to Revise 19 [*Getz* Entry No. 111.00]; see also Order [*Getz* Entry No. 111.10] (sustaining objection to the relevant request to revise).[6]

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[5] Ruger tries to make hay out of the fact that Plaintiffs deleted some allegations from their Original Complaint in their Amended Complaint. Ruger Br. 4–5. Such deletions are irrelevant under the *Briere* test where the cause of action otherwise remains the same. The relation back doctrine is designed to "serve the purpose of promoting substantial justice," *Briere* v. *Greater Hartford Orthopedic Grp, P.C.*, supra, 325 Conn. 210, and is thus concerned with the overall fairness of an amendment and not a technical accounting of how many allegations are taken away.

[6] Ruger itself acknowledged Plaintiffs' allegations about the design of the weapon in its Request to Revise, by demanding that Plaintiffs "delete all references to the design, engineering, or manufacture of the firearm as a basis for an alleged violation of CUTPA." Req. to Revise 8 [*Getz* Entry No. 101.00].

Ruger argues that Plaintiffs' allegations regarding violations of the National Firearms Act ("NFA") and the Gun Control Act ("GCA") present a new cause of action, merely because the Amended Complaint refers to the statutes by name rather than referencing "regulations targeting" AR-15s or federal classification. Ruger Br. 15. This elevates form over substance and contravenes *Briere*'s emphasis on the operative "group of facts." *Briere* v. *Greater Hartford Orthopedic Grp, P.C.*, supra, 325 Conn. 207. Practice Book § 10-3 does not require a contrary conclusion. Courts are clear that Section 10-3 provides a "directory rather than mandatory" instruction. *Gilbert* v. *Beaver Dam Ass'n of Stratford, Inc.*, 85 Conn. App. 663, 671, 858 A.2d 860 (2004) (lack of citation in the complaint did not preclude plaintiff's reliance on statute at trial where defendants were sufficiently apprised of that reliance through plaintiff's preliminary trial brief and a hearing for a temporary injunction). A complaint's lack of citation to a statute on which a plaintiff relies is not a fatal pleading defect, so long as the defendant is subsequently "sufficiently apprised" of the plaintiff's reliance reasonably in advance of trial. See, e.g., *Rocco* v. *Garrison*, 268 Conn. 541, 557, 848 A.2d 352 (2004) ("As long as the defendant is sufficiently apprised of the nature of the action . . . the failure to comply with the directive of Practice Book § 10–3(a) will not bar recovery." (Citation omitted.)); see also *Lucas ex rel. Lucas* v. *Pina*, Superior Court, judicial district of New Britain, Docket No. CV000500499S, 2002 WL 494354, *4 (March 4, 2002) (negligence per se claims related back to original complaint, despite the original complaint's failure to cite statute underlying those claims, where "the allegations essential for [the] action" were set forth in the original complaint). Here, Plaintiffs' amendments—filed mere months after commencement of the action and well before discovery and trial—apprised Ruger of the specific federal statutes upon which their Original Complaints relied.

Moreover, Ruger, one of the leading firearms manufacturers in the United States, cannot credibly argue that it was not on notice of which federal statutes it was accused of violating, even before filing of the Amended Complaint. The Original Complaint, filed in 2023, followed years of public controversy over ATF's regulation of certain weapons equipped with stabilizing braces and open discussion in gun-industry media about shouldering braced "pistols" for use as short-barreled rifles.[7] When Ruger saw allegations in the Original Complaint that its AR-556 "pistol" was designed with an "altered" (i.e., shortened) barrel and "stabilizing brace[]" in lieu of a traditional "stock" to "evade federal classification as a rifle" and afford access to "unscreened consumers," it was reasonably put on notice that it was being accused of evading and violating the federal laws governing the classification of and heightened vetting related to short-barreled rifles. Orig. Compl. ¶¶ 10, 13, 27.

Even Ruger's discussion of what is or is not covered by the GCA and NFA is wrong. Ruger argues that the Original Complaint's reference to "regulations target[ing]" AR-15 rifles cannot have put it on notice of the GCA- or NFA-based design and evasion claims, because such regulations "are nowhere to be found in either the GCA or the NFA." Ruger Br. 15. But in fact, the GCA and NFA, and their implementing regulations, require heightened scrutiny of consumers seeking to purchase all short-barreled rifles, including AR-15-style short-barreled rifles. See 26 U.S.C. § 5845(a), (c) (enumerating the definitional elements of short-barreled rifles, which cover all rifles that have barrels less than 16 inches or an overall length less than 16 inches); Orig. Compl.

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[7] See The Smoking Gun, *Arm Braces*, available at https://smokinggun.org/arm-braces/ (last visited May 20, 2025) (summarizing ATF's treatment of stabilizing braces from 2012 to 2023); TFB TV, *Ruger AR-556 Pistol: The New Budget Baseline* (Oct. 18, 2019), available at https://www.youtube.com/watch?v=oFqd7JONpDU (review of the AR-556 Pistol, published by a gun-industry YouTube channel and referenced in Amended Complaint ¶ 63, in which the reviewer fires the weapon from the shoulder using the stabilizing brace).

¶ 10 (Ruger sought to "evade *federal* classification as a rifle" (emphasis added)).[8] It is thus doubly clear that Ruger had notice of Plaintiffs' design and evasion claims.

Ruger also mischaracterizes Plaintiffs' allegations that it "evade[d]" federal law, Orig. Compl. ¶¶ 10, 15, by claiming that they were in fact allegations of its "compli[ance]" with federal law. Ruger Br. 15. Evasion of the law is not compliance with it, as any fair reading of the Original Complaint demonstrates. See also Evasion, Black's Law Dictionary (12th Ed. 2024) (defining "evasion" as "[t]he deliberate avoidance of what one has responsibility for doing, esp. by cleverness or deceit" and "[a] means of avoidance; a dodge or subterfuge"). One need only consider the well-established understanding of "tax evasion," see, e.g., 26 U.S.C. § 7201; General Statutes § 12-736, to conclude that allegations that Ruger "evaded" federal gun laws were allegations of illegal violations of those laws—and all the more so when the allegations are construed in the light most favorable to the Plaintiffs. Ruger makes a similarly meritless argument that the Original Complaint "concedes" that the weapon is a pistol, Ruger Br. 14, based on the allegation that Ruger sold the "stabilizing braces that essentially allowed the weapon to be converted to a rifle while still preserving its classification as a pistol for regulatory purposes." Orig. Compl. ¶ 13. On the contrary—and construed, as it must be, in the light most favorable to Plaintiffs—the Original Complaint alleged that Ruger paired the short-barreled AR-556 "pistols" with stabilizing braces in place of traditional stocks to allow "unscreened consumers" to use the weapons as "stock-stabilized AR-15 rifle[s]" while still preserving Ruger's *own* designation of its weapon as a "pistol." Orig. Compl. ¶¶ 10, 13, 15, 27. Or, in the words of the Amended Complaint,

[8] See, e.g., Primary Arms, *Watchtower TYPE 15M CQB 10.5" 5.56 NATO Forged SBR*, available at https://tinyurl.com/4tft8uat (listing for "compact and lightweight AR-15 SBR [short-barreled rifle] that is ideal for close-quarters combat" and that is, as disclosed in a drop-down field, an "NFA restricted item[]").

Ruger configured the weapons with stabilizing braces in place of traditional stocks in order to designate and market them as pistols and thereby "maintain plausible deniability" about their true status as unlawful short-barreled rifles. Am. Compl. ¶ 64.

Thus, this case is distinguishable from *Dimmock* v. *Lawrence & Mem'l Hosp., Inc*., relied on by Ruger, where a conflict in the pleadings actually did exist. 286 Conn. 789, 805, 945 A.2d 955 (2008). There, the plaintiff initially alleged "that the defendants should *not* have performed a spinal fusion because there was *no spinal instability*"; in her amendment, she alleged "that the defendants *should* have performed a spinal fusion, but that they did not use the proper material." *Id.* No such contradictions exist here, where from the Original Complaint to now Plaintiffs have consistently and expressly alleged Ruger's evasion of federal firearms laws.[9]

In short, Plaintiffs' Original Complaint gave Ruger sufficient notice of Plaintiffs' design-based evasion claims. As discussed above, the Original Complaint alleged that Ruger designed, produced, and sold the AR-556 Pistols in a manner intended to evade federal regulations. See supra at 2–3, 8–9. The Amended Complaint merely makes express and clarifies *which* federal regulations Ruger violated and expands upon the ways in which it did so. Accord *Williams* v. *Beemiller, Inc.*, 100 A.D.3d 143, 149, 952 N.Y.S.2d 333, 338 (2012), opinion amended on reargument, 103 A.D.3d

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[9] Additional authority on which Ruger relies is likewise distinguishable, as, unlike here, those cases concerned amended complaints raising entirely new core claims that did not have allegations to support them in the original complaints. See *Sharp* v. *Mitchell*, 209 Conn. 59, 546 A.2d 846 (1988) (original complaint alleged negligent supervision based on defendant's order that decedents enter a dangerous underground area, while amended complaint alleged defendant's negligent design of an underground storage requiring different facts to prove liability); *Alswanger* v. *Smego*, 257 Conn. 58, 776 A.2d 444 (2001) (informed consent to procedure versus informed consent to surgical resident's involvement in surgery); *Sandvig* v. *A. Dubreuil & Sons, Inc.*, 68 Conn. App. 79, 789 A.2d 1012 (2002) (failure to finish floor versus actively damaged tiles on floor); *Patterson* v. *Szabo Food Serv. of New York, Inc.*, 14 Conn. App. 178, 540 A.2d 99 (1988) (failure to clean floor versus created a dangerous condition on floor). Notably, Ruger does not offer a single case applying the relation back doctrine that was not previously cited in its unsuccessful objection to Plaintiffs' request to amend.

1191, 962 N.Y.S.2d 834 (2013) ("We conclude that, although the complaint does not specify the statutes allegedly violated, it sufficiently alleges facts supporting a finding that defendants knowingly violated federal gun laws."). Plaintiffs' Amended Complaint thus provided additional factual detail to allegations already noticed in the Original Complaint in order to refine the issues for Ruger and the Court at an early stage. To reject Plaintiffs' Amended Complaint on those grounds would turn the fact-pleading standard on its head.

C. The *Briere* Factors Support Application of the Relation Back Doctrine.

To determine whether the new allegations fall within the same transaction or occurrence, courts consider several non-exhaustive factors, including "whether the original and new allegations involve the same actor or actors, allege events that occurred during the same period of time, occurred at the same location, resulted in the same injury, allege substantially similar types of behavior, and require the same type of evidence and experts." *Briere* v. *Greater Hartford Orthopedic Group, P.C.*, supra, 325 Conn. 211. Courts consider the factors holistically, and a plaintiff's complaint need not satisfy each factor standing on its own. See, e.g., *Carlson* v. *Countryside Manor Healthcare Facility, Inc*., Superior Court, judicial district of New Britain, Docket No. CV176039750, 2018 WL 2471283, *5 (May 15, 2018) (overruling objection to amendment despite concluding that plaintiff did not satisfy *Briere*'s "same actor or actors" factor). Importantly, when determining relation back, courts are to "construe pleadings broadly and realistically, rather than narrowly and technically." *Briere* v. *Greater Hartford Orthopedic Group, P.C.*, supra, 209. Each of the *Briere* factors supports application of the relation back doctrine here.

First, **the key actors remain the same**.[10] The Original and Amended Complaints assert the same cause of action by the same Plaintiffs against the same defendant—Ruger. And the

[10] Ruger frames this factor as concerning the "relevant witnesses," rather than the relevant parties (Ruger Br. 12), though neither the Supreme Court nor the Appellate Court has clarified this

Original and Amended Complaints will require **the same types of evidence and witnesses**, thereby also satisfying the final *Briere* factor. As discussed above, Ruger's claim that the Original Complaint concerned only its marketing conduct, narrowly construed (Ruger Br. 12–13), is incorrect. The Original Complaint clearly alleges design-based evasion of federal law, and relevant Ruger witnesses would not have been limited to members of the marketing department. Moreover, Ruger's decisions about how to market the weapon were linked to and intertwined with both the product's design as an AR-15-style short-barreled rifle and Ruger's decision to designate the weapon as a "pistol." See Orig. Compl. ¶¶ 9–15, 17, 23, 26–27; Am. Compl. ¶¶ 5–13, 16, 21, 56–82. Determining whether Ruger unlawfully produced, marketed, and sold illegal short-barreled rifles and evaded federal law will involve examining evidence of Ruger's intent, such as the weapon's design *and* the content of Ruger's marketing. Cf. *Sig Sauer, Inc.* v. *Brandon*, 826 F.3d 598, 602 (1st Cir. 2016) ("[I]t is hard to believe that Congress intended to invite manufacturers to evade the [National Firearms Act's] carefully constructed regulatory regime simply by asserting an intended use for a part that objective evidence in the record—such as a part's design features—indicates is not actually an intended one."). Similarly, whether Ruger promoted unlawful use of its AR-556 Pistols will turn in part on whether those weapons are, in fact, short-barreled rifles. Witnesses from Ruger's legal department, engineering and product development departments, marketing department, and sales department would provide relevant evidence under either complaint. And, though the parties have not yet disclosed any expert witnesses, either complaint would call for expert evidence as to both the design and marketing of the weapon.

point. The Court need not decide this issue here, because the Amended Complaint satisfies either framing of the first *Briere* factor.

In short, the same type of evidence and witnesses will be required, even if there are shifts in nuance or scope of the evidence. Ruger's divide-and-conquer strategy of trying to separate the design and marketing allegations is based on a false dichotomy. And in any event, the relation back doctrine does not preclude assertion of new or alternate theories of liability so long as they are based, as they are here, on the *same transaction or occurrence* as the original allegations. See *Briere* v. *Greater Hartford Orthopedic Group, P.C.*, supra, 325 Conn. 210; see also *Gurliacci* v. *Mayer*, supra, 218 Conn. 546–49.

Further, the amended allegations involve **substantially similar types of behavior** occurring over **the same time period** and in the **same locations**—that is, Ruger's design, manufacture, launch, marketing, and sale of the AR-556 Pistols. Ruger's attempt to bifurcate the relevant behavior into two halves separated by its spring 2019 launch of the AR-556 Pistols on the consumer market (Ruger Br. 12–13) is premised on the same made-up distinction between Ruger's design and marketing conduct. Any sophisticated public company debuting a new consumer product will develop its marketing campaign prior to product launch and in conjunction with designing the product; indeed, the anticipated market and marketing often will drive a product's design, and nothing in the record suggests that Ruger deviated from this practice. Additionally, as described above, both complaints implicate conduct of employees in several departments, including legal, product development, engineering, sales, and marketing personnel; thus, the locations of the relevant conduct will not meaningfully vary between complaints.

And finally, Plaintiffs have alleged the **same injury**; both the Original Complaint and Amended Complaint allege wrongful death as a result of Ruger's unlawful conduct.

Therefore, for the reasons stated above, the Court should again deny Ruger's claim that the Amended Complaint is untimely because it does relate back to the Original Complaint.

II. PLAINTIFFS' AMENDED COMPLAINT SATISFIES PLCAA'S PREDICATE EXCEPTION.

The Protection of Lawful Commerce in Arms Act ("PLCAA") is a federal statute that protects firearms manufacturers from certain kinds of civil lawsuits. Ruger vastly overstates PLCAA's reach, mischaracterizes relevant caselaw, and ignores the authority that clearly permits Plaintiffs' claims. Because Plaintiffs' lawsuit falls within PLCAA's predicate exception, Ruger's motion to strike should be denied.

A. PLCAA and the Predicate Exception

PLCAA was enacted in 2005 to protect the firearms industry from liability in cases where the injury was solely caused by a third party's criminal conduct and where the gun industry defendant did nothing wrong. See 15 U.S.C. § 7901(a)(6). To serve that aim, PLCAA requires the dismissal of claims against a gun manufacturer only when the suit constitutes a "qualified civil liability action." 15 U.S.C. § 7902(a); see generally *Soto* v. *Bushmaster Firearms International, LLC*, 331 Conn. 53, 116–17, 202 A.3d 262 (2019) ("*Soto*"). PLCAA defines a "qualified civil liability action" as:

> [A] civil action . . . brought by any person against a manufacturer or seller of a qualified product . . . for damages . . . or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party. . . .

15 U.S.C. § 7903(5)(A). Plaintiffs do not dispute that this case meets that threshold definition.[11]

However, PLCAA also provides six exceptions to this definition of "qualified civil liability action," § 7903(5)(A)(i through vi), and this case falls within one of them. That carve-out allows a plaintiff to bring a case against a firearms manufacturer that has knowingly violated a state or federal statute "applicable to the sale or marketing of" firearms:

> The term "qualified civil liability action" . . . shall not include . . . *an action in which a manufacturer or seller of a qualified product knowingly violated a State or*

[11] As relevant here, a "qualified product" includes a firearm. § 7903(4).

> *Federal statute applicable to the sale or marketing of the product*, and the violation was a proximate cause of the harm for which relief is sought . . . .

(Emphasis added.) § 7903 (5) (A) (iii). "This exception has come to be known as the predicate exception because a plaintiff must allege a knowing violation of a predicate statute." *Soto*, supra, 331 Conn. 68 n.12.

The predicate statute need not provide the cause of action, although in some cases—such as *Soto*—it does. See, e.g., *King* v. *Klocek*, 187 App. Div. 3d 1614, 1614–16, 133 N.Y.S.3d 356 (2020) (permitting negligence case to proceed against gun store that sold handgun ammunition to underage individual in violation of the GCA); *Roberts* v. *Smith & Wesson Brands, Inc.*, Docket No. 22 LA 00000487, 2025 WL 1295092, *12–14 (Ill. Cir. April 1, 2025) (permitting common-law claims to proceed because plaintiffs also alleged violation of Illinois consumer protection statutes).[12] In short, to satisfy PLCAA's predicate exception, a plaintiff must plead (1) a knowing violation of a predicate statute; (2) that the violation was a proximate cause of the harm that the plaintiff suffered; and (3) a cause of action seeking relief for the same harm, whether that cause of action is in the predicate statute itself or arises from another source, including the common law. As we now explain, Plaintiffs plainly satisfy these requirements.

B. PLCAA Does Not Bar Plaintiffs' CUTPA-Based Claims.

Plaintiffs' CUTPA-based wrongful death claims are premised on Ruger's knowing violations of multiple predicate statutes—the GCA, NFA, and CUTPA itself—each of which is a

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[12] Accord *Prescott* v. *Slide Fire Solutions, LP,* 410 F. Supp. 3d 1123, 1138–39 (D. Nev. 2019) (same, where predicate statute was the Nevada Deceptive Trade Practices Act); *Brady* v. *Walmart Inc.*, Docket No. 8:21-CV-1412-AAQ, 2022 WL 2987078, *6–10 (D. Md. July 28, 2022) (same, where predicate statute was Maryland provision regulating possession of firearms); *Smith & Wesson Corp.* v. *Gary*, 875 N.E.2d 422, 434–35 (Ind. App. 2007) (same, where predicate statute was Indiana public nuisance statute); *Williams* v. *Beemiller, Inc.*, supra, 100 App. Div. 3d 145–51 (same, where predicate statute was GCA); *Corporan* v. *Wal-Mart Stores East, LP*, Docket No. 16-2305-JWL, 2016 WL 3881341, *3–4 (D. Kan. July 18, 2016) (same); *Chiapperini* v. *Gander Mountain Co.*, 48 Misc. 3d 865, 872–78, 13 N.Y.S.3d 777 (December 23, 2014) (same).

statute "applicable to the sale or marketing" of firearms under PLCAA, see 15 U.S.C. § 7903 (5) (A) (iii); *Soto*, supra, 331 Conn. 129. Critically, Ruger does not contest in this motion that Plaintiffs have sufficiently alleged that it knowingly violated the NFA and the GCA, that each of those statutes qualifies as a PLCAA predicate statute,[13] or that Ruger's knowing violations were a proximate cause of Plaintiffs' harm. See, e.g., *King* v. *Klocek*, supra, 187 App. Div. 3d 1615 (allegations that defendant knowingly violated the GCA satisfied the predicate exception).[14] Ruger has thus conceded, at least for purposes of this motion, that Plaintiffs have sufficiently alleged Ruger's knowing violation of a predicate statute. See *Dingle* v. *Stamford*, Superior Court, judicial district of Waterbury, Docket No. UWYX06CV186044501S, 2019 WL 4321893, *2 n.2 (August 19, 2019) (*Bellis, J.*) ("[I]t is improper to raise a new argument in a reply brief, because doing so deprives the opposing party of the opportunity to respond in writing."), quoting *Natasha B.* v. *Dept. of Children & Families*, 189 Conn. App. 398, 406 n.11, 207 A.3d 1101 (2019). Thus, Ruger's challenge to the use of CUTPA as a predicate is beside the point, and this Court need not reach that issue. Even if that argument had any merit (which it does not), Plaintiffs have alleged other, unchallenged predicate violations of the NFA and GCA. PLCAA therefore does not protect Ruger, and Plaintiffs need only have adequately alleged their underlying causes of action for this case to proceed (and they have, as discussed below).

Nonetheless, we address Ruger's argument that CUTPA does not qualify as a predicate statute in this case, which is incorrect on the merits. First, the scope of *Soto's* holding is much

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[13] They clearly do. See, e.g., *City of New York* v. *Beretta U.S.A. Corp.*, 524 F.3d 384, 400–01 (2d Cir. 2008) (the predicate exception covers, at a minimum, "state and federal laws that specifically and expressly govern firearms"); *Soto*, supra, 331 Conn. 125 (2019) (same).

[14] To the extent that Ruger challenges proximate cause as to the portion of Plaintiffs' CUTPA claim pled in Paragraph 112(e) of the Amended Complaint, those arguments are addressed below in Part III(B).

broader than Ruger suggests. The Supreme Court in *Soto* conducted an as-applied, not facial, review of CUTPA's status as a predicate statute. *Soto*, supra, 331 Conn. 135 n.57 ("[T]he relevant legal question is whether a statute is applicable to the sale or marketing of firearms as applied to the particular circumstances of the case at issue, rather than facially applicable."). Accordingly, while the Court focused on marketing or advertising as the basis for the plaintiffs' CUTPA claim, nothing in *Soto* indicates that the Court intended to prevent a plaintiff from invoking the predicate exception based on a defendant's sale-based violation of CUTPA. Indeed, it would be absurd if CUTPA was a PLCAA predicate for purposes of firearms-marketing-based violations but not for violations related to the illegal sale of the very same weapons. That is especially so since PLCAA itself defines the predicate exception as including statutes "applicable to the *sale* or marketing" of firearms; (emphasis added) 15 U.S.C. § 7903 (5) (A) (iii), and CUTPA reaches both types of conduct.

Further, and contrary to Ruger's claim, the Court's opinion is replete with language strongly suggesting that sale-based violations of CUTPA can constitute PLCAA predicate violations. For example, *Soto* cited with approval the Second Circuit's holding that "the predicate exception encompasses . . . laws . . . that clearly can be said to implicate the *purchase and sale* of firearms, as well as laws of general applicability that courts have applied to the *sale and marketing* of firearms," and noted that "CUTPA falls squarely into both of these categories." (Emphasis added; internal quotation marks omitted.) *Soto*, supra, 331 Conn. 125, quoting *City of New York* v. *Beretta U.S.A. Corp.*, supra, 524 F.3d 404; see also *id.*, 152 ("Because CUTPA specifically regulates commercial *sales and* marketing activities . . . it falls squarely within the predicate exception" (emphasis added)). Relatedly, *Soto* noted that "CUTPA also has been applied to the

sale of firearms," *Id.*, 126–27, implying that sale-based violations of CUTPA would satisfy PLCAA's predicate exception as well.

Ruger takes *Soto*'s posture as an as-applied challenge and attempts to contort it into an argument that the *Soto* Court precluded or discouraged other types of CUTPA-based predicate violations. See Ruger Br. 22 ("The *Soto* majority went to considerable lengths to support its limited holding that laws such as CUTPA qualify as a predicate statute, insofar as they apply to wrongful advertising claims." (Emphasis omitted; internal quotation marks omitted.)). That argument does not withstand scrutiny. Ruger selectively excerpts a sentence in which the Court assumed that "as a general matter, the predicate exception cannot be so expansive as to fully encompass laws *such as public nuisance statutes* insofar as those laws reasonably might be implicated in any civil action arising from gun violence." (Emphasis added.) *Soto*, supra, 331 Conn. 135. The quotation says nothing about CUTPA's role as a PLCAA predicate. The accompanying footnote, which Ruger also quotes, merely agrees with the Second Circuit that an as-applied review is appropriate but takes no view on whether PLCAA might bar any other type of CUTPA claim. *Id.*, 135 n.57; see supra 19-20. Nowhere did the Court limit CUTPA's status as a predicate *only* to *Soto*'s facts or imply that PLCAA required such a limit; it merely decided the case on an as-applied basis, considering the facts before the Court.

Moreover, even if Ruger were correct that *Soto* limited CUTPA's reach as a PLCAA predicate statute to violations based on "a manufacturer's promotion of its products for criminal use" (Ruger Br. 22), Plaintiffs' allegations satisfy that standard. Contrary to Ruger's contention, the core of Plaintiffs' allegations is not that Ruger falsely labeled the AR-556 Pistols to confuse the weapons' consumers. See *id.*, 23. Plaintiffs instead assert that by classifying, advertising, and selling the weapon as a "pistol," Ruger not only knowingly violated the NFA and GCA but also

promoted illegal conduct by encouraging consumers seeking unregistered short-barreled rifles to violate the NFA and GCA by possessing illegal short-barreled rifles. Am. Compl. ¶¶ 64, 68, 76, 112–18. These allegations plainly satisfy even Ruger's restrictive reading of *Soto*, where the Court concluded that "Congress did not mean to preclude actions alleging that firearms companies violated state consumer protection laws by promoting their weapons for illegal, criminal purposes." *Soto*, supra, 331 Conn. 119. Plaintiffs' claim may proceed "without crippling PLCAA," because Plaintiffs "allege only that one specific [firearm manufacturer] advertised one particular line of assault weapons" in a deceptive, illegal way, *id.*, 135, by promoting the unlawful possession and use of the weapons in violation of the GCA, NFA, and CUTPA. Ruger's motion to strike the CUTPA claim should be denied.

C. PLCAA Does Not Bar Plaintiffs' Common-law Claims.

As explained above, courts have unanimously held that PLCAA permits common-law claims to go forward where the lawsuit also alleges the knowing violation of a predicate statute that was a proximate cause of the harm for which relief is sought. See supra 17-18 & n.12. Ruger's contrary argument ignores virtually all of the relevant authority and vastly overstates the holdings of the cases that it does cite. Because Plaintiffs have alleged knowing violations of the GCA, NFA, and CUTPA, each of which is a valid PLCAA predicate, their common-law negligence, public nuisance, negligence *per se*, and recklessness claims may proceed. Indeed, as noted above, Ruger does not contest in this motion that Plaintiffs have sufficiently alleged that its knowing violation of two predicate statutes (the NFA and the GCA) proximately caused Plaintiffs' harm. See supra 18-19. PLCAA's predicate exception requires nothing more.

1. Negligence, Public Nuisance, and Recklessness

PLCAA's predicate exception permits Plaintiffs' negligence, public nuisance, and recklessness claims to proceed because the Amended Complaint also alleges Ruger's knowing

violations of predicate statutes—here, the GCA, NFA, and CUTPA. Contrary to Ruger's argument, every court to consider the issue has agreed. See, e.g., *Roberts* v. *Smith & Wesson Brands, Inc.*, supra, 2025 WL 1295092, *12-14; *Brady* v. *Walmart Inc.*, supra, 2022 WL 2987078, *6–10, 17; *Prescott* v. *Slide Fire Solutions, LP*, supra, 410 F. Supp. 3d 1138-40; *Smith & Wesson Corp.* v. *Gary*, supra, 875 N.E.2d 434–35; *King* v. *Klocek*, supra, 187 App. Div. 3d 1614–15; *Williams* v. *Beemiller, Inc.*, supra, 100 App. Div. 3d 145–51; *Corporan* v. *Wal-Mart Stores East, LP*, supra, 2016 WL 3881341, *3–4; *Chiapperini* v. *Gander Mountain Co., Inc.*, supra, 48 Misc.3d 872–78. Ruger's failure to acknowledge this unanimous authority bespeaks the weakness of its position. Actions, like this one, based on common-law duties that also allege a predicate violation are plainly allowed.

Each of the cases listed above also contradicts Ruger's claim that PLCAA preempts ordinary negligence suits because negligence does not require a "knowing" state of mind. Ruger Br. 26. That is so because each one involves negligence or other common-law claims of less than knowing scienter that were permitted to proceed where PLCAA's predicate exception was also satisfied. As these cases illustrate, the common-law claims do not need to contain a "knowing" scienter element so long as PLCAA's predicate exception is separately met, and Plaintiffs here have pled multiple knowing predicate violations. Ruger's quotation of *Estados Unidos*, Ruger Br. 26, is taken entirely out of context. In the quoted portion of the opinion, the First Circuit merely recognized that the predicate exception itself contains a heightened mens rea requirement and contrasted that with the scienter required for an ordinary negligence *per se* claim. *Estados Unidos Mexicanos* v. *Smith & Wesson Brands, Inc.*, 91 F. 4th 511, 528 (1st Cir. 2024), cert. granted, 145 S. Ct. 116 (2024) (granting petition for certiorari on other questions). Indeed, the First Circuit's

holding was that PLCAA permits common-law claims that satisfy the predicate exception, which is directly contrary to Ruger's attempted reliance on it. See *id.*, 527.[15]

In making its patently incorrect argument, Ruger repeatedly mischaracterizes the cases that it cites. Perhaps the most glaring example is in its reference to *Gilland* v. *Sportsmen's Outpost, Inc*., Superior Court, judicial district of Hartford, Docket No. CV-09-5032765-S, 2011 WL 2479693 (May 26, 2011). Ruger claims that *Gilland* stands for the proposition that "PLCAA does not permit common law negligence claims to proceed." Ruger Br. 28. But the court said no such thing. Instead, it held that common-law negligence claims may not proceed *where the predicate exception has not been adequately pleaded*. *Gilland* v. *Sportsmen's Outpost, Inc*., supra, 2011 WL 2479693, *16. Indeed, the *Gilland* court quoted approvingly a D.C. Court of Appeals case holding that "PLCAA does not bar all actions against gun sellers for negligently causing harm" and specifically cited the predicate exception as a way to bring those types of lawsuits. *Id*., *16 (quoting *District of Columbia* v. *Beretta U.S.A. Corp.*, 940 A.2d 163, 174–75 (D.C. 2008)). The court emphasized that "PLCAA requires dismissal of the claims against Sportsmen's Outpost, since the plaintiffs' allegations are within its purview *and do not come within its exceptions*." (Emphasis added.) *Id.* Had those exceptions been adequately pleaded—as they have been here—the negligence claims would be permitted to go forward.

Similarly, Ruger incorrectly claims that *Delana* v. *CED Sales, Inc*., 486 S.W.3d 316 (Mo. 2016), found that "PLCAA expressly preempts *all* general negligence actions seeking damages

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[15] Importantly, Ruger has not argued that it does not owe the common-law duties alleged in the Amended Complaint, nor does it claim that Plaintiffs failed to allege a breach of those duties. It merely contends that a breach of those duties is not actionable because of PLCAA. Ruger Br. 27. Ruger has also not argued that Plaintiffs failed to plead a knowing violation of the GCA, NFA, or CUTPA, and has therefore forfeited these arguments for purposes of this motion. *Dingle* v. *Stamford*, supra, 2019 WL 4321893, *2 n.2; see supra 18-19.

resulting from the criminal or unlawful use of a firearm." (Emphasis added.) Ruger. Br. 27. As with *Gilland*, what the court actually held was that PLCAA preempts negligence claims "*that do not fall within a statutory exception*." (Emphasis added.) *Delana* v. *CED Sales, Inc*., supra, 486 S.W.3d 321. Further, the predicate exception was not at issue in *Delana,* and the court did not discuss it at all other than to note that it is one of PLCAA's exceptions. *Id.* Ruger's reliance on *In re Estate of Kim ex rel. Alexander* v. *Coxe*, 295 P.3d 380, 386 (Alaska 2013), suffers from the same flaw. See *id.* (noting in a heading that "PLCAA Bars Negligence Actions *Not Falling Under An Enumerated Exception*") (emphasis added). And in *Jefferies* v. *District of Columbia*, 916 F. Supp. 2d 42, 46 (D.D.C. 2013), the plaintiff did not allege a predicate violation, so the negligence claim was dismissed *sua sponte*.

Finally, *Ileto* v. *Glock, Inc.*, 565 F.3d 1126 (9th Cir. 2009), and *City of New York* v. *Beretta*, 524 F.3d 384 (2d Cir. 2008), did not hold, as Ruger suggests, that PLCAA prohibits all public nuisance actions.[16] Instead, *Ileto* held that California's statutes codifying general common-law torts like public nuisance did not satisfy PLCAA's predicate exception, indicating that predicate statutes must "concern[] firearm regulations *or* sales and marketing regulations." (Emphasis added.) *Ileto* v. *Glock, Inc.*, supra, 565 F.3d 1137, 1138. *Ileto* explicitly did not opine on any other statute, *id.*, 1138 n.9, and indeed, the Connecticut Supreme Court surmised that CUTPA "might well qualify as a predicate statute under the standard articulated . . . in *Ileto*," since CUTPA "specifically regulates commercial sales activities," *Soto*, supra, 331 Conn. 129 n.53. Similarly, the Second Circuit held that New York's general nuisance statute was not a valid PLCAA predicate. *City of New York* v. *Beretta*, supra, 524 F.3d 390. Importantly, it noted that the predicate

[16] Both *Ileto* and *City of New York* were filed before PLCAA's passage, so the claims in those cases could not have been pled to comport with PLCAA's statutory exceptions.

exception encompasses "statutes that do not expressly regulate firearms but that clearly can be said to implicate the purchase and sale of firearms." *Id.*, 404. *Soto* held that CUTPA satisfied that test. *Soto*, supra, 125. And *City of New York* recognized what PLCAA makes plain: alleged violations of statutes expressly regulating firearms also (and most obviously) satisfy the predicate exception. *City of New York* v. *Beretta*, supra, 404. In sum, and in contrast to the claims in *Ileto* and *City of New York*, Plaintiffs' public nuisance claim arises from the same conduct that also constitutes Ruger's alleged knowing violations of the NFA, GCA, and CUTPA, which satisfy the predicate exception.

The authority that Ruger cites stands for the unremarkable proposition that some negligence and public nuisance claims have been dismissed pursuant to PLCAA because they did not satisfy PLCAA's predicate exception or otherwise failed to state a claim. Because Plaintiffs' negligence, recklessness, and public nuisance causes of action are part of a lawsuit that plainly does satisfy the predicate exception multiple times over, and Ruger has not argued that Plaintiffs fail to plead the merits of those causes of action, Ruger's motion to strike should be denied.

2. Negligence *Per Se*

Ruger contends that PLCAA bars Plaintiffs' negligence *per se* claim because Ruger is a manufacturer, not a seller, and thus PLCAA's negligence *per se* exception does not apply. Ruger Br. 28–29. But Plaintiffs have not invoked and are not relying on PLCAA's negligence *per se* exception, nor do they need to. Because the claim fits under PLCAA's predicate exception, the Court need not assess PLCAA's additional negligence *per se* exception. See, e.g., *Brady* v. *Walmart Inc.*, supra, 2022 WL 2987078, *12 (holding that, "because I have found that Plaintiffs have satisfied the predicate exemption, I need not determine whether [the negligent entrustment] exception has been satisfied, as well"); *King* v. *Klocek*, supra, 187 App. Div. 3d 1616 (same as to negligence *per se* and negligent entrustment, and collecting cases). In other words, Plaintiffs'

negligence *per se* claim—like all its common-law claims—can proceed so long as the predicate exception is satisfied, and whether it satisfies a second PLCAA exception is irrelevant. Ruger's motion to strike the negligence *per se* claim should be denied.[17]

III. PLAINTIFFS HAVE SUFFICIENTLY ALLEGED THEIR CUTPA-BASED WRONGFUL DEATH CLAIMS.

A. Plaintiffs Have Standing to Assert Their CUTPA-Based Claims.

Pursuant to CUTPA, "*[a]ny person* who suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment of a method, act or practice prohibited by section 42-110b, may bring an action. . . to recover actual damages." (Emphasis added.) General Statutes § 42-110g (a).[18] CUTPA thus confers standing on "any person" who alleges (i) ascertainable loss that was (ii) proximately caused by a prohibited act or practice. *Soto*, supra, 331 Conn. 88-90; see *Artie's Auto Body, Inc.* v. *Hartford Fire Ins. Co.*, 287 Conn. 208, 218, 947 A.2d 320 (2008) (construing "as a result of" in Section 42-110g(a) to mean proximate causation in cases where plaintiffs seek money damages). Plaintiffs allege that Ruger designed, marketed, and sold its AR-556 Pistols in a way that encouraged illegal conduct: Ruger leveraged consumer demand for easy access to unregulated (and therefore unlawful) short-barreled rifles outside the approval and registration process mandated by the NFA and GCA. See Am. Compl. ¶¶ 8–9, 13–14, 54–86, 93–98, 112. As was foreseeable, the Shooter exploited Ruger's illegal

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[17] Stated differently, the negligence *per se* exception does not create the cause of action Plaintiffs assert here. Where it is invoked, it merely eliminates PLCAA's protection of sellers by permitting state common law negligence *per se* claims against them in cases where plaintiffs do not also satisfy the predicate exception. More to the point, PLCAA does not preclude Plaintiffs from invoking the predicate exception as a basis to allow a state common law negligence *per se* claim to proceed against a manufacturer, as Plaintiffs have done here.

[18] Plaintiffs assert their claims in Count One pursuant to the wrongful death statute, General Statutes § 52-555. For purposes of this motion, Plaintiffs need only establish that their decedents would have had standing to assert the underlying CUTPA claims had they survived. See *Soto*, supra, 331 Conn. 88.

conduct by quickly and easily acquiring and then misusing his weapon of choice. See Am. Compl. ¶¶ 99–109. Plaintiffs have thus alleged that Ruger's unfair and deceptive business practices proximately caused the personal injuries and death of their decedents, which is all that CUTPA requires.

Ruger does not contend that Plaintiffs have failed to allege ascertainable loss. Nor does it challenge the sufficiency of Plaintiffs' proximate cause allegations insofar as they concern Plaintiffs' CUTPA standing.[19] Ruger instead attacks the claim because Plaintiffs' decedents were not themselves consumers of the AR-556 Pistol. Ruger Br. 16–20. But CUTPA does not require plaintiffs to be consumers: "On its face, the statute plainly and unambiguously authorizes *anyone* who has suffered an ascertainable financial loss as a result of an unfair trade practice to bring a CUTPA action." (Emphasis in original.) *Soto*, supra, 331 Conn. 89. This Court need not look further than the statute's text. But even if it were to do so, the statute's legislative history confirms the General Assembly's intent to eschew a privity requirement. *Id.*, 89–91 (reviewing the legislative amendments that removed CUTPA's former privity requirement); see also *Vacco* v. *Microsoft Corp.*, 260 Conn. 59, 86, 793 A.2d 1048 (2002) (referring to the 1979 legislative amendment "pursuant to which the privity requirement of § 42-110g was eliminated").

The common-law doctrines of remoteness and proximate causation, rather than a privity requirement, cabin CUTPA standing. *Soto*, supra, 331 Conn. 93–94; *Vacco* v. *Microsoft Corp.*, supra, 260 Conn. 88. That is, the "ascertainable loss" required by CUTPA must constitute a direct, rather than remote or derivative, injury. *Soto*, supra, 93–94. "This remoteness requirement . . .

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[19] Ruger asks the Court to strike sub-paragraph 112(e) of the Amended Complaint on the ground that Plaintiffs' causation allegations are insufficient as to that sub-paragraph. See Ruger Br. 23–26. But Ruger concedes Plaintiffs' *standing* as to that allegation. Ruger Br. 16. In any event, as discussed in Part III(B) infra, Plaintiffs have sufficiently alleged causation as to its CUTPA claim.

mitigates any concerns associated with imposing limitless liability on CUTPA defendants." *Id.*, 94. Here, Plaintiffs are the most direct victims of the foreseeable gun violence caused by Ruger's unlawful, unfair, and deceptive marketing that led to the acquisition of the short-barreled rifle used by the Shooter. Plaintiffs are thus in the same position as the plaintiffs in *Soto*, where the Supreme Court explained: "If the defendants' marketing materials did in fact inspire or intensify the [Sandy Hook] massacre, then there are no more direct victims than these plaintiffs." *Id.*, 99–100.[20]

Finding no support for its position in CUTPA's plain text, legislative history, or controlling precedent, Ruger attempts to extract from *Soto* a distinction between "advertisements promoting illegal conduct" and "advertisements containing false or misleading information." Ruger Br. 21–23. Ruger asserts that, as a rule, non-consumers can assert CUTPA claims arising from only the former and not the latter. *Id*. But *Soto* does not support the bright line Ruger tries to draw. Instead, the language on which Ruger relies appears within *Soto*'s discussion of remoteness and proximate causation—in other words, from within the very framework that courts apply instead of a privity requirement. See *Soto*, supra, 331 Conn. 129. To sharpen its discussion of that framework, *Soto* drew an illustrative contrast between the wrongful marketing before it, which encouraged violent use of the rifle used to kill the Sandy Hook victims, and a "*typical*" false or misleading advertising case, where the "primary harm . . . is that a consumer will rely to his or her detriment on the advertiser's representations," rather than harm to a third party. (Emphasis added.) *Id.*, 99. But,

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[20] As the *Soto* Court noted, the Supreme Court's earlier decision in *Ganim* v. *Smith & Wesson, Corp.*, 258 Conn. 313, 780 A.2d 98 (2001), is instructive on this point. *Soto*, supra, 331 Conn. 97–98. *Ganim* rejected a municipality's standing to assert CUTPA claims arising from the allegedly unsafe, unfair, and deceptive design, sale, and marketing of guns used to perpetrate violence in the city. *Ganim* v. *Smith & Wesson, Corp.*, supra, 320–21. The Court classified the *city's* injuries as too remote and derivative of the harms suffered by other parties, including the direct victims of gun violence. *Id.*, 353–59. In doing so, the *Ganim* Court strongly suggested that the individuals killed by the defendant's guns *would* have standing to bring similar claims. *Id.*, 358–59; see also *Soto*, supra, 97–98.

contrary to Ruger's suggestion (Ruger Br. 19), the Court did not determine or even suggest that in cases where, as here, non-consumer victims *are* directly harmed by false or misleading advertising, those victims would *per se* have no standing to assert a CUTPA claim. Cf. *Osprey Props., LLC* v. *Corning*, Superior Court, judicial district of Fairfield, Docket No. FBTCV156048525, 2015 WL 9694349, *1, 8 (December 11, 2015) (non-consumer property owner had standing to assert CUTPA claim arising from deceptive advertising related to underground storage tanks installed on the property by prior owners).

Moreover, even if this Court accepted Ruger's false dichotomy in CUTPA standing law, Plaintiffs' claims would fall on the *Soto* side of the line—like *Soto,* this case is about advertising that promoted illegal conduct, not just about false advertising. Ruger's deceptive marketing of the AR-556 Pistols as "pistols" promoted illegal civilian possession and use of unregistered short-barreled rifles. See Am. Compl. ¶¶ 102, 112(b). This case is perfectly aligned with *Soto*'s description of a wrongful advertising claim, the "gravamen" of which is "that an advertisement models or encourages illegal or unsafe behavior." *Soto*, supra, 331 Conn. 99. Plaintiffs do not allege that Ruger's marketing of the weapon as a "pistol" actually deceived the Shooter. The Shooter knew what he was getting: an illegal, unregistered short-barreled rifle that was uniquely well suited for his goal of committing a mass shooting. As *Soto* notes: "In such instances, the immediate victims are just as likely to be third parties who are not customers[.]" *Soto*, supra, 99. As in *Soto*, Plaintiffs' decedents are the direct victims whose harm was proximately caused by Ruger's marketing. Ruger's attempt to recast Plaintiffs' claim into one of false or misleading advertising that primarily harmed the Shooter fundamentally misunderstands these allegations.

Finally, Ruger reads far too much into the *Soto* Court's statement that it "'need not decide today whether there are other contexts or situations in which parties who do not share a consumer,

commercial, or competitor relationship with an alleged wrongdoer may be barred, for prudential or policy reasons, from bringing a CUTPA action.'" Ruger Br. 17 (quoting *Soto*, supra, 331 Conn. 96). This statement did not restrict the *Soto* Court's holding. On the contrary, the Supreme Court made this statement (i) after its thorough explanation of remoteness and proximate causation, and (ii) in the course of *rejecting* the defendants' arguments that CUTPA requires a business relationship to confer standing. See *Soto*, supra, 96; see also *Kesl, LLC* v. *Gibbs Oil Co., LLP*, Superior Court, judicial district of Hartford, Docket No. HHDCV176079718S, 2020 WL 8135525, *3 (December 1, 2020) (rejecting the argument that *Soto* "explicitly limited its holding to the unique facts of that case" and explaining: "What is clear. . . is that a direct business relationship is not required."). Thus, the language quoted by Ruger communicates only that there may be specific cases in which the principles of remoteness and proximate causation will lead to the dismissal of a claim where there is no consumer or business relationship between the parties; it preserves the broader rule that no such relationship is categorically required. Neither principle demands a business relationship here, and Ruger does not meaningfully argue otherwise. [21]

[21] The authorities Ruger cites in support of its restrictive reading of *Soto* (Ruger Br. 17–18) do not further its cause. Two are clearly inapposite. See *Glover* v. *Bausch & Lomb, Inc.*, 343 Conn. 513, 560–62, 275 A.3d 168 (2022) (distinguishing *Soto*'s analysis of the interplay between the Connecticut Product Liability Act and CUTPA); *Forlastro* v. *Anderson*, Superior Court, judicial district of Litchfield, Docket No. LLICV206024875S, 2020 WL 4815879, *2 (July 28, 2020) (declining to read *Soto* to support the availability of emotional distress damages under CUTPA). Another supports Plaintiffs' position more than Ruger's, see *Lafferty* v. *Jones*, 229 Conn. App. 487, 547, 327 A.3d 941 (2024) (acknowledging *Soto*'s "elimination of the commercial relationship test" and instead distinguishing *Soto* on the grounds that the plaintiffs—Sandy Hook families asserting a CUTPA claim arising from misinformation spread by radio host Alex Jones—did not sufficiently allege direct injury from the defendants' advertising or sale of its products). Finally, Ruger cites two Superior Court decisions that are both distinguishable, as they addressed the specialized context of CUTPA claims against insurers. *Johnson* v. *Farmers Prop. & Cas. Ins. Co.*, Superior Court, judicial district of New Haven, Docket No. NNH-CV22-6126126, 2024 WL 5135107, *3–4 (December 10, 2024) (*Soto* inapplicable, and CUTPA claim dismissed due to a lack of contractual relationship between the parties, where a defendant insurer allegedly low-balled a plaintiff in negotiations to settle claim against the defendant's insured, since CUTPA claims against

Ruger illegally marketed and sold unregistered short-barreled rifles into the consumer market, thereby promoting evasion of federal law and the illegal possession and use of those weapons. As was entirely foreseeable, its product reached a mass shooter interested in quickly and easily acquiring a highly lethal, concealable, and maneuverable weapon. Plaintiffs' decedents "are the ones who got shot." *Soto*, supra, 331 Conn. 99. Their harm is direct, and to suggest that Plaintiffs' injury is "derivative of the economic harm (if any) suffered by an actual buyer of the firearm" (Ruger Br. 19) is misguided at best.

B. Plaintiffs Have Alleged That Ruger's Unfair Marketing Proximately Caused Their Harm.

Ruger has not challenged the alleged causal connection between its overall scheme to design and sell unregistered short-barreled rifles to civilian consumers—a scheme supported and enabled by its marketing of the weapon at issue—and Plaintiffs' harm. Ruger instead challenges Plaintiffs' causation allegations regarding only one sub-paragraph within the Amended Complaint. Ruger Br. 23 (citing Am. Comp. ¶¶ 112(e)). Thus, Ruger's argument is not only wrong, it is irrelevant; granting it would not meaningfully alter Plaintiffs' ability to proceed with their claims.

Causation is a question of fact, which is generally not decided on a motion to strike. *Orzech* v. *Giacco Oil Company*, 208 Conn. App. 275, 283, 264 A.3d 608 (2021); *Farlow* v. *Barbarino Bros*., Superior Court, judicial district of New Haven, Docket No. CV065004722, 2006 WL 3755219, *2 (December 1, 2006). Causation presents a question of law "only when the mind of a fair and reasonable person could reach only one conclusion." *Farlow* v. *Barbarino Bros*, supra, 2006 WL 3755219, *2; cf. *In re Michael D.*, 58 Conn. App. 119, 122, 752 A.2d 1135 (2000) ("A motion to strike is properly granted if the complaint alleges mere conclusions of law that are not

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insurers are subject to a distinct doctrine); *Grand Prix*. *Motors, Inc.* v. *Greene*, Superior Court, judicial district of Danbury, Docket No. DBDCV216038357S, 2021 WL 4287349, *8 (September 1, 2021) (similar).

supported by the facts alleged." (Citation omitted.)). Moreover, Ruger's attempt to read sub-paragraph 112(e) in isolation is contrary to the requirement that the Court analyze the complaint "broadly and realistically," *Dimmock* v. *Lawrence & Mem'l Hosp., Inc*., supra, 286 Conn. 802, and consider the "larger constellation of factual allegations" in the complaint as a whole, *Hanes* v. *Solgar, Inc.*, supra, 2017 WL 1238417, *3; see supra 4–5.[22]

Here, Plaintiffs allege ample facts showing that Ruger's scheme was a cause in fact of Plaintiffs' damages. Ruger sought to profit from consumer demand for short-barreled rifles available outside the NFA's mandated process. Am. Compl. ¶¶ 64, 108. To this end, Ruger designed the AR-556 Pistols to function like full-length AR-15-style rifles and configured them with shortened barrels that increase their concealability and maneuverability. *Id.*, ¶¶ 6–7, 10–11, 36–37, 54, 56, 62–63, 71–77. The resultant weapons combine the accuracy and lethality of full-length AR-15-style rifles with tactical advantages provided by smaller weapons. *Id.*, ¶¶ 7, 33-38, 78-81. To evade the NFA, Ruger marketed and sold them as pistols. *Id*., ¶¶ 6–8, 13, 21–22, 93–98, 112(b), (d). At the same time, to reach its target demographic—that is, consumers interested in unregistered short-barreled rifles (*id*., ¶¶ 14, 64, 108)—Ruger promoted, directly and indirectly, the weapons' assaultive and/or militaristic nature, including their similarities to other AR-15-style rifles. *Id*., ¶¶ 34, 112(c), (e). And it worked. The Shooter chose the tactically maneuverable AR-

[22] None of the Superior Court decisions that Ruger cites regarding the pleading standard (Ruger Br. 24) merits a different result—indeed, only one even addressed insufficient causation allegations. See *Buchanan* v. *Greenwich Hosp*., Superior Court, judicial district of Waterbury, Docket No. X06CV106007415S, 2011 WL 7064250, *3 (December 28, 2011) (granting motion to strike CUTPA claim arising from hospital's alleged failure to disclose doctor's history of substance abuse where plaintiff failed to allege causal connection between doctor's impairment and plaintiff's harm). Plaintiffs' claims here suffer from no such infirmities, as they have specifically alleged how Ruger's conduct—including its marketing of the weapon—directly resulted in the Shooter being able to acquire the weapon in time to commit this shooting.

556 Pistol as the perfect weapon to commit a mass shooting in a confined space such as a grocery store. *Id.*, ¶¶ 18, 106. These allegations of causation are more than sufficient at this stage.

Neither *Lowy* v. *Daniel Defense, LLC* nor *Merrill* v. *Navegar* supports a different result. The plaintiffs there failed to draw a direct causal line between the allegedly problematic aspects of the defendants' advertising and the shooters' actions. *Lowy, et al.* v. *Daniel Def., et al.*, No. 23-CV-1338, 2024 WL 3521508, *1, *4 (E.D. Va. July 24, 2024), appeal docketed, No. 24-1822 (4th Cir. 2024) (plaintiffs alleged that advertising at issue deceptively and unfairly appealed to the impulsive, risk-taking tendences of young men like the shooter, but failed to sufficiently allege that said advertising in fact influenced the shooter's decision to commit his attack); *Merrill* v. *Navegar, Inc.*, 26 Cal. 4th 465, 489–92 (Cal. 2001) (plaintiff alleged manufacturer's "inflammatory" advertisements of the highly lethal features of the shooter's weapon, but failed to allege that the shooter was influenced by that marketing). That is not this case. Here, the thrust of Plaintiffs' causation allegations is not that Ruger's marketing inspired the Shooter to perpetrate the shooting, but instead that Ruger's design and marketing supported and enabled the distribution of unregistered short-barreled rifles to civilians, and thereby facilitated the Shooter's quick and easy access to his weapon of choice. See Am. Compl. ¶¶ 19–22, 100–05. It may be that the Shooter himself consumed Ruger's marketing; it may be that the dealer that sold the Shooter the weapon parroted Ruger's marketing to his customer to encourage the sale; it may be that the Shooter consumed third-party content inspired and bolstered by Ruger's marketing. The critical point at this stage is that Plaintiffs' allegations, including all facts necessarily implied therein, sufficiently allege that Ruger's marketing was an integral part of the broader unlawful distribution scheme that made the weapon available to the Shooter in the first place.

In short, Plaintiffs have adequately alleged causation with regard their full CUTPA claims, and the Court need not and should not resolve line-by-line questions of causation at this stage.

CONCLUSION

For the reasons stated herein, Plaintiffs respectfully request that the Court deny Ruger's Motions to Strike in both the *Getz* and *Stanišić* matters.

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CERTIFICATION

I certify that a copy of the above document was mailed or delivered electronically or non-electronically on the 21st day of May 2025, to all attorneys and self-represented parties of record and to all parties who have not appeared in these matters and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

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