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** **June 11, 2025**
NATHANIEL GETZ, EXECUTOR OF THE ESTATE OF SUZANNE FOUNTAIN, ***Plaintiff,*** **v.** **STURM, RUGER & COMPANY, INC.,** ***Defendant.***	

REPLY IN SUPPORT OF
MOTION TO STRIKE AMENDED COMPLAINTS

In an effort to recast their original allegations, Plaintiffs misrepresent the facts and the law and ignore their prior statements with respect to the central identity of the Original Complaints. The Amended Complaints do not relate back to the Original Complaints because they address different conduct allegedly performed by different actors at a different time. Furthermore, the allegations of the Original Complaints do not support the claims pled in the Amended Complaints, and Plaintiffs have made statements to this Court admitting as much.

However, even if this Court were to find that the Amended Complaints relate back to the Original Complaints, the Amended Complaints should be stricken because the claims fail as a matter of law.

A. The Law of the Case Doctrine Does Not Apply

Judge Bellis' one-word order "overruling" Ruger's objection to Plaintiffs' Requests to Amend is not the "law of the case." Where, as here, the applicable legal standards "differ between those that pertained to the prior ruling and those that pertain to a second consideration of the issue, the law of the case doctrine does not apply." *Garthwaite v. Morley*, No. FST CV 23-6063296 S, 2025 WL 842643 at *4 (Menon, J.) (Mar. 14, 2025). *See Henderson v. Lagoudis*, 148 Conn. App. 330, 339 (2014) (law of the case inapplicable where ruling on motion to dismiss required different principles and analysis than summary judgment). Moreover, where, as here, "the jurisdiction of the trial court is implicated, an adjudicator is not bound by the law of the case doctrine, but should consider independently the issue of jurisdiction." *Pinchbeck v. Dept. of Public Health*, 65 Conn. App. 201, 207-08, cert. denied, 258 Conn. 928 (2001). Finally, where, as here, there is no definitive decision on a motion, the law of the case doctrine is inapplicable. *Rosenblit v. Danaher*, 206 Conn. 125, 133 (1988).

Indeed, Connecticut courts have repeatedly rejected Plaintiffs' exact argument that an amendment permitted over objection pursuant to the relation back doctrine is the law of the case. *See Duryea v. Figueroa*, No. CV106001430S, 2012 WL 6743593, at *2 (Fischer, J.) (Dec. 6, 2012) ("it cannot be said that the court decided this particular issue, especially since the court's ruling was limited to a single word 'overruled.' Therefore, this court does not consider the ruling to be the law of the case on this issue"); *Mesner v. Cheap Auto Rental*, No. CV075009039S, 2008 WL 590495, at *2 (Bellis, J.) (Feb. 13, 2008) (rejecting argument that "in allowing the plaintiff to

amend the complaint to add the claim of negligent entrustment, [the prior judge] 'did not accept that negligent entrustment was barred by the statute of limitations,' and that this ruling is the law of the case. . . . [finding the] issue remains as to whether the claim for negligent entrustment 'relates back' to the original complaint."). *See also Alswanger v. Smego*, 257 Conn. 58, 63 (2001) (affirming summary judgment for defendant where relation back doctrine did not save untimely allegations, despite court previously permitting amendment over objection).

Briere v. Greater Hartford Orthopedic Group, P.C., 325 Conn. 198 (2017) does not hold otherwise. The cherry-picked, footnoted dicta cited by Plaintiffs speaks only to the standard of review. *Id.* at 206, n.8. It certainly does not stand for the proposition that a one-word order permitting amendment means that the court has definitively decided the issue of relation back such that the law of the case prohibits future consideration on a dispositive motion. At most, this language demonstrates inconsistent authority as to whether a court should decide relation back on a request to amend or on a dispositive pleading. *Compare Rizzuto v. Davidson Ladders*, 280 Conn. 225, 256–57 (2006) ("even if a proposed pleading is alleged to be insufficient, a 'plaintiff should be permitted to file [the amended pleading], so that the issues arising under it may be determined in proceedings properly adapted to that end.'").[1]

Finally, "[a] judge is not bound to follow the decisions . . . made at an earlier stage of the proceedings, and . . . has the same right to reconsider the question as if he had himself made the original decision." *Breen v. Phelps*, 186 Conn. 86, 98 (1982). *Cf. Morway v. United Concrete Prods., Inc.*, No. CV 940364750S, 1997 WL 600388, at *2 (Zoarski, J.) (Sept. 19, 1997) ("Even if the . . . single word "overruled" . . . were to be considered the law of the case, the plaintiff's motion

[1] Regardless, Plaintiffs' prior argument in favor of amendment, that amendments should be "liberally granted," stands in stark contrast to their current argument that Judge Bellis lacked discretion to permit amendment if the claims do not relate back. Plaintiffs' new argument, which directly contradicts their earlier argument, is barred by judicial estoppel. *See Getz* Dkt. 135.00, pp. 4-5; *Stanisic* Dkt. 1166.00, pp. 4-5. *MacDermid, Inc. v. Cookson Grp.*, PLC, 149 Conn. App. 571, 582 (2014) (judicial estoppel prohibits contradictory arguments on request to amend and motion to dismiss).

should nevertheless be denied. The doctrine . . . is flexible, and trial judges are not bound by interlocutory decisions of other trial judges involving the same case or issues.").

B. The Allegations in the Amended Complaint Do Not Relate Back.

The relation back doctrine does not save Plaintiffs' untimely allegations—and it is not even a close call. Plaintiffs' arguments reflect a misunderstanding of the well-established case law, which requires that the "identity of the cause of action remains substantially the same," that the new allegations "expand or amplify" the original cause of action, and that the original allegations provide "fair notice" of the new claims. Plaintiffs' Amended Complaints fail every step of the way.

The Amended Complaint fails the requirement that the "identity of the cause of action remains substantially the same." *See Wagner v. Clark Equipment Co., Inc*., 259 Conn. 114, 129 (2002). Plaintiffs' claim that they have "from the beginning" alleged "design, marketing, and evasion as the basis for liability under CUTPA," is revisionist history. (Pls. Opp., p. 8). Plaintiffs' original CUTPA claim was specific to marketing—and only marketing. Plaintiffs alleged that Ruger's "marketing" was "unethical," "immoral," "unscrupulous," "oppressive," and "reckless." (Compl. ¶¶31-36). They did not describe Ruger's design, manufacture, distribution, sale, or even "evasion" as unethical, immoral, unscrupulous, oppressive, reckless, or in violation of public policy. These are the essential elements of a CUTPA claim. *See Web Press Serv. Corp. v. New London Motors, Inc.*, 203 Conn. 342, 355 (1987) (describing the "Cigarette Rule"). It *necessarily* follows that Plaintiffs' CUTPA claim was limited to Ruger's marketing.

And the marketing claim was never about the firearm's "design." To the contrary, Plaintiffs described Ruger's marketing of AR-556 firearms as militaristic, assaultive, and glorifying and promoting lone gunman assaults. (Compl. ¶¶17-20). They specifically likened Ruger's marketing

to the marketing of the firearm used in the Sandy Hook tragedy. (*Id.*, ¶29) ("Ruger continued to market AR-556s in the wake of the Sandy Hook Elementary School shooting and during the subsequent litigation involving Remington's ***similar marketing*** of AR-15-style weapons in the lead up to that shooting." (emphasis added)). Plaintiffs repeated this explanation in their Objection to Ruger's Request to Revise. (*See Getz* Dkt. 111.00, pp. 21-22; *Stanisic* Dkt. 111.00, pp. 21-22) ("this case surrounds the marketing and promotion of AR-15-like weapons such as the defendant's AR-556 in the time period immediately following Sandy Hook (as well as the countless other mass shootings that occurred involving the use of AR-15 or AR-15-like rifles between Sandy Hook and King Soopers).").

Plaintiffs have now pivoted away from the allegations of the Original Complaints, contending that "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." (Pls. Opp., p. 34) (emphasis added). These new allegations stand in stark contrast to the original allegations, which, in Plaintiffs' own words, "surround[] the marketing and promotion of AR-15-like weapons," which they described as militaristic, assaultive, and glorifying the lone gunman. (*Getz* Dkt. 111.00, p. 21-22; *Stanisic* Dkt. 111.00, pp. 21-22; Compl. ¶¶16-19).

Despite the blatant sea change to the identity of the cause of action, Plaintiffs contend that four immaterial references to "design" in the Original Complaint were simply expanded and amplified in the Amended Complaint, thus satisfying the relation back doctrine. (Pls. Opp., p. 8). This argument reflects a misunderstanding of the law. Plaintiffs' references to the design of the firearm were not part of the original cause of action; at most, they were factual background. The

cause of action "is the transaction or occurrence *underpinning the plaintiff's legal claim* against the defendant." *Briere*, 325 Conn. at 210 (emphasis added). *See also Griswold v. Advanced Cardiovascular Specialist, PC*, No. UWYCV166032204S, 2021 WL 5112655, at *3 (Roraback, J.) (Oct. 8, 2021)("Based upon its reading of appellate authority on the question of what may properly be interpreted to constitute a single cause of action, the court finds that the fact that the claims arise from a common set of facts is a necessary but insufficient element as there must also be a common 'delict.'").

The claimed "four" references to design in the Original Complaint were immaterial to Plaintiffs' original CUTPA claim and, therefore, could not be "underpinning" of that legal claim. Indeed, in response to Ruger's Request to Revise the Original Complaint to remove references to design on the ground that the Connecticut Product Liability Act's exclusivity provision prohibits the inclusion of a design-based claim as a basis for a violation of CUTPA, Plaintiffs specifically argued that those paragraphs were ***not*** part of the CUTPA claim:

> Despite paragraphs 8 through 13 referencing the design of the AR-556, these are ***simply factual allegations*** that the defendant can admit, deny or leave the plaintiff to their proof. The defendants mistakenly argue that by simply referencing those factual allegations, the plaintiff is somehow putting forth a product's liability claim.

Getz Dkt. 111.00, p. 20; *Stanisic* Dkt. 111.00, p. 20 (emphasis added). Plaintiffs cannot now claim the opposite is true—that the design-based allegations were in fact part of the original cause of action. *See MacDermid*, 149 Conn. App. at 582 (judicial estoppel prohibits contradictory arguments).

The new theories of liability cannot relate back because they are not supported by the original allegations. The allegations in the Original Complaint are insufficient to support the essential elements of Plaintiffs' new legal theories of negligence, negligence per se, recklessness,

public nuisance, and CUTPA. While the relation back doctrine does not necessarily preclude new theories of liability, the doctrine *does* preclude new theories of liability if the "new theory of liability is not supported by the original factual allegations of the earlier, timely complaint, and would require the presentation of new and different evidence." *Sherman*, 294 Conn. at 563.[2]

25 Grant St., LLC v. City of Bridgeport, 199 Conn. App. 600 (2020) is instructive. There, a property owner alleged that the city was liable for fire damage under a theory of negligence because it failed to inspect the property prior to the fire. The property owner sought to amend its complaint to allege that fire code violations, which the city would have discovered during the required inspection, proximately caused its damages. The court found that the relation back doctrine did not apply because the new theory of liability was dependent on factual allegations not set forth in the original complaint, and facts and evidence necessary for the city to defend against the new theory liability were different from the old theory. *Id.* at 638. Likewise, here, the allegations in the Original Complaint are insufficient to support Plaintiffs' new theories of liability.

Plaintiffs' new theories of liability would also require Ruger "to gather facts and evidence to defend against it that are different than what would have been necessary to defend against the prior theory." *Id.* at 638-39. Plaintiffs' argument that the "Original and Amended Complaints will require the same types of evidence and witnesses," is again inconsistent with their prior claims. They previously objected to responding to discovery predicated on the Original Complaint because they intended to file "new allegations" that would render the discovery "moot." *See Getz* and *Stanisic* Dkt. Nos. 118.00, p. 3 ("Plaintiff has provided notice to Defendant of Plaintiff's intent to file an amended complaint that will include allegations relating to the weapon's design and how it

[2] Under such circumstances, courts consistently find the new claims do not relate back. *See, e.g., Silva v. 165 Wooster St.*, No. NNH CV23-6133323S, 2024 WL 3507492, at *5 (Stewart, J.) (July 18, 2024) (reviewing elements of legal theories to find no relation back); *Moran v. Waterbury Hosp*., No. UWY-CV22-6064436-S, 2024 WL 340386, at *3 (Parkinson, J.) (Jan. 24, 2024) (same); *Bundrick v. Moran*, No. AANCV126010492, 2014 WL 5286869, at *3 (Brazzel-Massaro, J.) (Sept. 15, 2014) (same).

was made and intended to be fired, as well as ***new allegations*** of ***additional violations of law beyond CUTPA***." (emphasis added)); and 138.00, pp. 13-19, 139.00, pp. 11-16 (objecting because the "requested amendments do not include the allegation to which [the requests] pertain. In the event the Court grants Plaintiff's requested amendments, [the requests] ***will be rendered moot***." (emphasis added)). Again, Plaintiffs have changed their position according to the exigencies of the moment.[3]

Finally, the Original Complaint did not give Ruger "fair notice" of Plaintiffs' new claims. *See Briere*, 325 Conn. at 207. Despite that the Original Complaints focused on Ruger's marketing of its AR-556 firearm line, Plaintiffs argue that Ruger was somehow on notice of its new claims in light of the "four" references to design in their Original Complaints. (Pls. Opp., p. 8). But, the Original Complaints never specified a violation of the NFA or GCA, nor even described those laws.[4] The Original Complaints' allegations that Ruger's design of the AR-556 Pistol "evaded regulations targeted at limiting AR-15-style rifles," coupled with statements that Ruger "preserve[d] its classification as a pistol" cannot possibly lead to an interpretation that the AR-556 Pistol was in fact a short-barreled-rifle and that Ruger's manufacture, distribution,

[3] In contrast to Plaintiff's self-serving broadening of the identity of key actors to "Ruger" (rather than the specific individuals they alleged were key to determination of the *forum non conveniens* motion), the key actors have clearly changed. Plaintiffs cannot credibly claim that the Original Complaint called for any witnesses outside the marketing department.

[4] While failure to plead a specific statute may be overlooked, that is only "if the issue is otherwise put before the trial court and no party is prejudiced by the lapse in pleading." *Fairfield Shores, LLC v. DeSalvo* 205 Conn. App. 96, 107 (2021). Here, Plaintiffs failed to identify the GCA and NFA, and further failed to put any issue with respect to those statutes before the Court. Plaintiffs' reliance on *Williams v. Beemiller*, Inc., 952 N.Y.S.2d 333 (2012), a fact-specific case that is neither binding on this Court nor germane to the relation back doctrine, is misplaced.

marketing, and sale of that Pistol violated the NFA and GCA. (Compl., ¶¶13, 15).[5] Plaintiffs' belated attempt to rescript the allegations of the Original Complaints should be rejected.[6]

At bottom, Plaintiffs contend that Ruger should have been on notice of their claim that Ruger violated a law they did not identify, did not describe, which has no private right of action, no relevance to the legal theory posed, and the legal effect of which was (and is) in limbo. This argument nears the absurd and the Court should reject it.

C. Plaintiffs' Injuries Are Remote from Ruger's Designation of the Firearm as a Pistol and Do Not Give Them Standing to Assert a CUTPA Misrepresentation Claim.

Plaintiffs' argument that the Court need not look further than CUTPA's text to conclude that any person who alleges an "ascertainable loss" as the result of an unfair trade practice has standing to maintain a CUTPA claim should be rejected. "[I]t strains credulity to conclude that CUTPA is so formless as to provide redress to any person, for any ascertainable harm, caused by any person in the conduct of any trade or commerce." *Vacco v. Microsoft Corp*., 260 Conn. 59, 88 (2002) (citing *Jackson v. R.G. Whipple, Inc*., 225 Conn. 705, 725-26 (1993)). Rather, principles of remoteness and proximate cause govern whether standing to bring a CUTPA action exists. *Id.*

Proximate cause is "a legal tool for limiting a wrongdoer's liability only to those harms that have a reasonable connection to his actions." *Ganim v. Smith & Wesson Corp*., 258 Conn. 313, 350-51 (2001). The essential demand of proximate cause is a "direct relation between the injury

[5] Plaintiffs' contention that Ruger should have anticipated its claims because it is "one of the leading firearms manufacturers in the United States," (Pls. Opp., p. 11), again reflects a misunderstanding of the law. Plaintiffs are not relieved of their burden simply because they believe Ruger "should" have known. *25 Grant St*, 199 Conn. App. at 641 ("original complaint itself" must provide notice).

[6] Even by Plaintiffs' definition, to evade means to avoid. (Pls. Opp., p. 12). Plaintiffs' tax evasion analogy is overly simplistic and ignores that tax evasion is a statutorily defined crime. At best the allegations in the Original Complaint are more akin to tax avoidance. *See* Worksheet Solutions: The Difference Between Tax Evasion and Tax Avoidance, https://apps.irs.gov/app/understandingTaxes/whys/thm01/les03/media/ws_ans_thm01_les03.pdf. Plaintiffs' claim that Ruger acted in such a way to avoid violating "regulations targeted at limiting AR-15-style rifles" (which the NFA and GCA do not regulate) cannot be interpreted as a claim that Ruger violated the GCA and the NFA. At best, Plaintiffs' allegations demonstrate that Ruger worked within the regulatory framework to achieve a particular result.

asserted and the injurious conduct alleged." *Holmes v. Sec. Inv. Prot. Corp*., 503 U.S. 258, 268 (1992). Something is "direct" when it is uninterrupted; and "indirect" when "other, independent factors" are present. *Hemi Grp., LLC v. City of New York*, 559 U.S. 1, 12 (2010). The law does not permit a "judicial remedy" for "every conceivable harm that can be traced to alleged wrongdoing." *Lexmark Int'l, Inc. v. Static Control Components, Inc*., 572 U.S. 118, 132 (2014).

Here, Plaintiffs' alleged harm is indirect. They broadly characterize their "causation allegations" to be that Ruger's design and marketing decisions "facilitated the Shooter's" access to the firearm. (Pls. Opp. at 34). But merely making a firearm available to one found eligible to possess it, after completion of a required FBI background check, cannot be a direct cause of injuries later inflicted by a criminal's intentional misuse of the firearm without making every sale of a criminally misused firearm a CUTPA violation.[7]

Plaintiffs misrepresent the *Soto* Court's CUTPA standing analysis, where the Court drew a distinction between a directly injured party's standing to assert a claim resulting from an advertisement promoting illegal conduct, and a party's standing to assert a "fundamentally different" claim for an indirect injury resulting from an alleged misrepresentation of a product's design characteristics. *Soto v. Bushmaster Firearms Int'l, LLC., 331 Conn. 53* at 98 – 99 (2019). When a product is misrepresented as being safe or legal to own, it is the actual purchaser who is "adversely impacted by the alleged wrong." *Id*. at 99. Although not expressly decided in that case, the only appropriate reading of *Soto* is that direct harm to a product's purchaser remains a prerequisite to a claim that the product manufacturer misrepresented the products it sells. Others, such as Plaintiffs here, who are not misinformed but are harmed only when the product is later

[7] The Bureau of Alcohol, Tobacco, Firearms, & Explosives (ATF) estimated there were three to seven million pistols with stabilizing braces in circulation as of 2020. *See Firearms Regulatory Accountability Coaction, Inc. v. Garland*, 112 F.4th 507, 516 (8th Cir. 2024). Under Plaintiffs' causation theory, injuries resulting directly from the criminal misuse of any one of these firearms will expose their manufacturers and sellers to state unfair trade practice act liability, despite there being no regulatory prohibition on their sale.

criminally misused, cannot claim to have been directly injured by the alleged misrepresentation.[8] The *Soto* Court did not expand the scope of CUTPA so much that it now allows claims against manufacturers by injured third parties regardless of whether their harm was directly or indirectly connected to the manufacturer's alleged injurious conduct.[9]

D. A Sufficiently Pled Statutory Violation Claim under the Predicate Exception Does Not Open the Door to Claims Based on Common Law Duties

Plaintiffs misunderstand Ruger's argument that actions against firearm manufacturers for damages resulting from the criminal misuse of firearms based on alleged breaches of common law duties are barred by the PLCAA. Ruger does not argue that Plaintiffs' negligence, public nuisance, and recklessness counts should be stricken to the extent that they plead a knowing violation of the *statutory duties* found in the GCA and NFA. Rather, Ruger has moved to strike allegations pled in these counts that seek to impose additional *common law* duties. These allegations should be stricken because the PLCAA plainly provides that a firearm manufacturer is not legally responsible for harm resulting from the criminal misuse of a firearm unless (1) it has knowingly violated one

[8] Plaintiffs' reliance on *Osprey Props., LLC v. Corning*, Superior Court, judicial district of Fairfield, Docket No. FBTCV156048525, 2015 WL 9694349 (Dec. 11, 2015) is misplaced. In *Osprey*, unlike here, there was no intervening conduct between the defendant's representation regarding the underground tanks and the plaintiff's harm. Similarly, in *Kesl, LLC v. Gibbs Oil Company, LLP*, Superior Court, judicial district of Hartford, Docket No. HHDCV176079718S, 2020WL 8135525 (Dec. 1, 2020), there was no intervening conduct rendering the plaintiff's harm indirect, as in this case.

[9] For the same reasons, *Soto* should not be read broadly to approve of CUTPA-based claims unrelated to marketing activities alleged to encourage criminal firearm use. The Court did not elaborate on its observation that "the predicate exception cannot be so expansive" to encompass alleged statutory violations "that might reasonably be implicated in any civil action arising from gun violence." 331 Conn. at 135. But in approving a "specific, narrowly framed wrongful marketing claim" against a manufacturer that "advertised one particular line of assault weapons in a uniquely unscrupulous manner, promoting their suitability for illegal, offensive assaults," the Court plainly signaled that the reach of its decision went no further. *Id*.; *see also* 331 Conn. at 157 ("[A]t least to the extent that [CUTPA] prohibits unethical advertising of dangerous products *for illegal purposes*, CUTPA qualifies as a predicate statute." (emphasis added.)) Here, the alleged statutory violation resulted in a legally-eligible person possessing a firearm, among countless other firearms equally capable of being misused. The alleged violation does not in any way involve what the Court in *Soto* found actionable under CUTPA - promotion of the firearm for use in "launch[ing] offensive assaults against perceived enemies." *Soto* should not be read as expansively as Plaintiffs suggest.

of the myriad firearm-related statutes governing its business activities and (2) the knowing violation is a proximate cause of the harm. 15 U.S.C. §7903(5)(A)(iii).[10]

That other courts have allowed negligence actions to proceed based on violations of statutory duties is not surprising. It is well established that actionable negligence can be based on a duty that arises from a statute. *See e.g., Pelletier v. Sordon/Skanska Const., Inc*. 286 Conn. 563, 578-79 (2008) (duty alleged to exist under building code); *Tanasi v. CitiMortgage, Inc*., 257 F.Supp.3d 232, 273 (D. Conn. 2017) (statutes can establish a duty of care as the basis for a negligence action). Although a duty to use care may also arise from circumstances in which a reasonable person knew or should have known that his actions are likely to cause harm, the PLCAA does not countenance such a duty in an action against a firearm manufacturer for harm resulting from criminal firearms misuse. The PLCAA protects manufacturers from such a common law claim. *See National Shooting Sports Foundation v. Platkin*, No. 22-6646, 2023 WL 1380388 at *6 (D.N.J. Jan. 31, 2023) (holding that "[t]he predicate exception exempts only those civil actions that require proof that the actor *knowingly* violated a relevant statute.")

No court has held that pleading a violation of a statutory duty under the predicate exception opens the door to claims against a firearm manufacturer based on general common law duties. The correct understanding of the PLCAA is that the duty owed by firearm manufacturers in cases arising from the criminal misuse of firearms is to not knowingly violate federal or state firearm statutes. Actions based, in whole or in part, on common law duties with lesser or no scienter requirements are prohibited.

[10] In *Getz*, the common law allegations that the Court should strike are: ¶¶ 120-126, 136, 137, 139-141, 143 and 146. In *Stanisic*, the common law allegations that the Court should strike are: ¶¶ 122-127, 137, 138, 140-142, 144 and 147.

E. Plaintiffs Have Failed to Sufficiently Plead Proximate Causation

Plaintiffs have not responded to Ruger's argument that they have not sufficiently pled that Ruger's alleged marketing of the AR-556 Pistol "for assaultive and/or militaristic uses" proximately caused their harm, except to say that striking the allegation "would not meaningfully alter" their "ability to proceed with their claims." (Pls. Opp. at 32.) Plaintiffs are clearly wrong. Their failure to plead essential facts in support of their distinct "unscrupulous" marketing claim means the claim proceeds no further, in the absence of a curative amended pleading.

Plaintiffs do not plead (1) the existence of any Ruger advertisement promoting the assaultive or militaristic uses of the firearm (there were none); (2) the shooter was exposed to such an advertisement (an impossibility); and (3) the shooter was motivated by such an advertisement to take innocent lives (also an impossibility). Plaintiffs essentially acknowledge this pleading failure by recasting their causation allegations to not be that "Ruger's marketing inspired the Shooter to perpetrate the shooting" but simply that Ruger "enabled the distribution" of the firearm "to civilians." (Pls. Opp at 34.) Thus, Plaintiffs have admitted they abandoned the "unscrupulous" marketing claim pled in their Original Complaint, and are instead exclusively pursuing the entirely distinct and untimely claim pled in their Amended Complaint – that Ruger's designation of the firearm as a pistol was the proximate cause of the shooting. Based on Plaintiffs' admission and the plainly insufficient factual allegations in support of their claim that Ruger marketed the firearm for assaultive and militaristic uses, *Getz* paragraph 112(e) and *Stanisic* paragraph 113(e) should be stricken.

F. A Negligence Per Se Claim Against a Firearm Manufacturer is a Qualified Civil Liability Action Barred by the PLCAA

Plaintiffs' attempt to circumvent Ruger's immunity from a negligence per se claim by not "relying" on the negligence per se exception is specious. A negligence per se claim against a

firearm manufacturer – as opposed to a firearm seller – is a prohibited qualified civil liability action under the PLCAA, regardless of whether plaintiff claims to have "invoked" PLCAA's negligence per se exception. Congress plainly intended to prohibit negligence per se claims against firearm manufacturers by expressly limiting their availability to claims against firearm "sellers." 15 U.S.C. § 7903(5)(a)(2). The Court need not go further in striking Plaintiffs' negligence per se claim.[11]

Plaintiffs' argument that their negligence per se claim survives PLCAA immunity because they have pled a statutory violation claim under the predicate exception is unavailing. Whereas the predicate exception requires proof that the defendant "knowingly" violated a statute applicable to the sale or marketing of firearms, 15 U.S.C. § 7903(5)(A)(iii), to prevail on a negligence per se claim, a plaintiff need only prove that such a statute was violated. If a statute has been violated, a defendant is negligent as a matter of law, and the defendant's knowledge is immaterial. *See Shukis v. Bd. of Educ. of Reg. Dist. No. 17*, 122 Conn. App. 555, 579-80 (2010). Thus, accepting Plaintiff's novel interpretation of the PLCAA wholly eliminates required proof that a manufacturer "knowingly" violated a statutory duty, and effectively renders the predicate exception surplusage. *See Remax Right Choice v. Aryeh*, 100 Conn. App. 373, 382 (2007) ("It is a basic tenet of statutory construction that the legislature does not intend to enact meaningless provisions"). Plaintiffs' negligence per se clams (Count 3) should be stricken, without leave to amend.

[11] Plaintiffs have not cited to any case in which a negligence per se claim against a firearm manufacturer was allowed to proceed in the face of PLCAA immunity. Both *Brady v. Walmart, Inc*., 2022 WL 2987078 (D. Md 2022) and *King v. Klocek*, 133 N.Y.S.3d 356 (2020) were actions against firearm or ammunition sellers, not manufacturers, and the courts in neither case held that an action pled under the predicate exception opened the door to a negligence per se claim against a firearm manufacturer.

Request for Relief

Ruger respectfully requests that Plaintiffs' Amended Complaints be stricken to the extent they allege a new cause of action based on alleged violations of the GCA and NFA. The new cause of action is time-barred and does not relate back to the Original Complaints.

If the new cause of action pled in the Amended Complaints is not found to be time-barred, Ruger requests that Plaintiffs' CUTPA claims be stricken because (1) Plaintiffs' lack of standing to bring CUTPA false representation claims, and (2) CUTPA claims unrelated to marketing activities alleged to promote criminal firearm use do not fit the PLCAA's predicate exception. (*Getz* Count One, *Stanisic* Counts One, Six, Eleven, Sixteen, and Twenty-One). Separately, the allegation in these Counts that Ruger marketed the firearm for "assaultive and/or militaristic uses" (*Getz* ¶ 112(e), *Stanisic* ¶ 113(e)) should be stricken for failure to sufficiently allege causation.

Ruger further requests that allegations pled in Plaintiffs' negligence, public nuisance, and recklessness Counts alleging violations of common law duties be stricken because causes of action based on common law duties are barred by the PLCAA. (*Getz* Count Two, Four and Five, and *Stanisic* Counts Two, Four, Five; Seven, Nine, Ten; Twelve, Fourteen, Fifteen; Seventeen, Nineteen, Twenty; and Twenty-Two, Twenty-Four, and Twenty-Five).

Lastly, Ruger requests that Plaintiffs' negligence per se claims be stricken because they are qualified civil liability actions barred by the PLCAA. (*Getz* Count Two and *Stanisic* Counts Three, Eight, Thirteen, Eighteen, and Twenty-Three).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 11, 2025, I delivered a true and correct of the foregoing via email to the following counsel of record:

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