STATE OF CONNECTICUT

Docket No. X10-UWY-CV-23-6072789 S
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RADMILO STANISIC, REPRESENTATIVE OF THE ESTATE OF NEVEN STANISIC, ET AL.	:	SUPERIOR COURT
v.	:	
STURM, RUGER & COMPANY, INC.	:	COMPLEX LITIGATION DOCKET AT WATERBURY
NATHANIEL GETZ, EXECUTOR OF THE ESTATE OF SUZANNE L. FOUNTAIN	:	
v.	:	
STURM, RUGER & COMPANY, INC.	:	NOVEMBER 12, 2025

MEMORANDUM OF DECISION RE MOTIONS TO STRIKE

STATEMENT OF THE CASE

These consolidated civil actions arise from a mass shooting[1] that occurred on March 22, 2021, at the King Soopers supermarket in Boulder, Colorado, resulting in

[1] The District of Columbia Circuit has observed that "'[t]he definition of mass shooting varies by source.' Office of the U.S. Surgeon General, The U.S. Surgeon General's Advisory on Firearm Violence: A Public Health Crisis in America 11 (2024). The Surgeon General's Advisory defines a mass shooting as 'four or more shot or killed, not including the shooter,' which it borrows from the Gun Violence Archive. Id. The Congressional Research Service defines it as 'a multiple homicide incident in which four or more victims are murdered with firearms — not including the offender(s) — within one event, and in one or more locations relatively near one another.' William J. Krouse & Daniel J. Richardson, Congressional Research Service, Mass Murder with Firearms: Incidents and Victims, 1999–2013, at 2 (2015). Another study similarly defines mass shootings as 'incidents in which at least four persons were killed, not including the shooter if applicable and irrespective of the number of

the deaths of ten individuals. By their amended complaints, the plaintiffs seek monetary damages from the defendant, Sturm, Ruger & Company, Inc.—the Connecticut-based manufacturer of the firearm used to carry out the massacre—for the wrongful deaths of their decedents. According to the plaintiffs, the defendant engaged in unfair trade practices, violated federal gun laws and regulations, and breached its common law duties in producing and marketing the weapon, thereby entitling the plaintiffs to compensation.

The defendant moves to strike the amended complaints. The defendant argues that the new allegations of the amended complaints are barred by the two-year statute of limitations set forth in Connecticut's wrongful death statute, General Statutes § 52-555, and further, that the new claims do not relate back to the plaintiffs' original pleadings; that the plaintiffs lack standing to assert false representation

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additional victims shot but not killed.' Christopher S. Koper, Assessing the potential to reduce deaths and injuries from mass shootings through restrictions on assault weapons and other high-capacity semiautomatic firearms, 19 Crim. & Pub. Pol'y 147, 150 (2020). The Congress, meanwhile, has defined 'mass killing' to mean '3 or more killings in a single incident.' 28 U.S.C. § 530C (b) (1) (M) (i) (I)." (Italics omitted.) *Hanson* v. *District of Columbia*, 120 F.4th 223, 241 n.9 (D.C. Cir. 2024). In light of the fact that the incident at issue resulted in the deaths of ten victims, the cases at hand involve a "mass shooting" under all of the foregoing definitions.

In considering the meaning of the phrase, "mass shooting," the *Hanson* court also made reference to the "steady increase in mass shootings, from an average of 1.1 per year during the 1970s, to an average of 4.5 per year from 2010 through 2013, . . . and more than 600 . . . each year between 2020 and 2023, . . . Despite accounting for a relatively small number of firearm deaths, mass shooting incidents cause outsized collective trauma on society and have a strong negative effect on the public's perception of safety. . . . There can be little doubt that mass shootings are an unprecedented societal concern." (Citation omitted; internal quotation marks omitted.) Id., 241.

claims against the defendant pursuant to the Connecticut Unfair Trade Practices Act (CUTPA), General Statutes § 42-110a et seq.; and that some of the plaintiffs' claims are barred, in whole or in part, by the federal Protection of Lawful Commerce in Arms Act (PLCAA), 15 U.S.C. § 7901 et seq. For the reasons that follow, the court concludes that the new allegations of the amended complaint are timely, based on law of the case and relation back doctrines; that, as the false representations involve alleged unethical and unscrupulous marketing practices by the defendant, the plaintiffs have CUTPA standing to pursue those claims; and finally, that the "predicate exception" to the immunity conferred by the PLCAA applies to all claims asserted in the plaintiffs' operative pleadings. As a result, the motions to strike are denied in their entirety.

I

A review of the procedural history of these matters is necessary to address certain issues presented by the defendants' motions.

The first of the two consolidated cases, *Getz* v. *Sturm, Ruger & Company, Inc.*, Docket No. X10-UWY-CV-23-6072791-S (Getz Action),[2] was commenced by a writ of summons and complaint dated March 10, 2023. As reflected in the state marshal's

[2] The court refers to the Getz Action as the first of the two consolidated cases because it was served on the defendant—and thus, commenced—prior to the Stanisic Action. The Stanisic Action is listed first in the double case caption on the first page of this memorandum of decision because, following the transfer of these cases to the Complex Litigation Docket, the Stanisic Action was assigned a docket number that precedes numerically the docket number assigned to the Getz Action. The Stanisic Action bears Docket No. X10-UWY-CV-23-6072789-S, whereas the Getz Action is assigned Docket No. X10-UWY-CV-23-6072791-S.

return of service on file, process in the Getz Action was served on March 13, 2023. Getz Action, Docket Entry No. 100.33. The Getz Action was made returnable to the court on April 18, 2023.

The second of the two consolidated cases, *Stanisic* v. *Sturm, Ruger & Company, Inc.*, Docket No. X10-UWY-CV-23-6072789-S (Stanisic Action), was commenced by a writ of summons and complaint dated March 22, 2023. As shown in the state marshal's return of service on file, process was provided to the state marshal on March 22, 2023, and service was made upon the defendant, pursuant to General Statutes § 52-593a,[3] within thirty (30) days thereof—namely, one day after delivery to the state marshal, on March 23, 2023. Stanisic Action, Docket Entry No. 100.30. The Stanisic Action was also made returnable to the court on April 18, 2023. The original complaints in the Getz and Stanisic Actions (collectively, the "original complaints"), seek damages for wrongful death "stemming from the shooting at King Soopers supermarket in Boulder, Colorado on March 22, 2021." Getz Action, Complaint dated March 10, 2023, count one, ¶ 1; Stanisic Action, Complaint dated March 22, 2023, counts one through five, ¶ 1.

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[3] Section 52-593a, entitled, "Action not lost where process served after expiration of limitations period," reads: "(a) Except in the case of an appeal from an administrative agency governed by section 4-183, a cause or right of action shall not be lost because of the passage of the time limited by law within which the action may be brought, if the process to be served is personally delivered to a state marshal, constable or other proper officer within such time and the process is served, as provided by law, within thirty days of the delivery.

(b) In any such case, the officer making service shall endorse under oath on such officer's return the date of delivery of the process to such officer for service in accordance with this section."

By way of background, the plaintiffs allege that the defendant "was founded in Connecticut in 1949, incorporated in Delaware in its current form in 1969, and [is] headquartered in Southport, Connecticut." See Stanisic Action, Complaint dated March 22, 2023, counts one through five, ¶ 2. Further according to the original complaints, the defendant "manufactured, marketed and sold" a firearm known as an "AR-556," and further, that the defendant "manufactured the AR-556 that was used in the shooting at King Soopers supermarket on March 22, 2021, resulting in the deaths of ten people, . . ." Id., ¶¶ 2 and 4. Among those killed was Suzanne L. Fountain, whose estate brought the Getz Action. Also killed were Neven Stanisic, Denny Strong, Lynn Murray, Jody Waters, and Kevin Mahoney, whose estates brought the Stanisic Action. The Getz and Stanisic Actions were consolidated by order of the court (*Stevens, J.T.R.*) on July 14, 2023. Stanisic Action, Docket Entry No. 114.10.

The original complaints contain a series of allegations concerning the defendant's purported design of the AR-556, a "rifle" that was "designed with features that were chosen to maximize casualties and engineered to deliver maximum carnage with extreme efficiency." See Stanisic Action, Complaint, counts one through five, ¶ 8. The original complaints also claim that in 2019, the defendant designed a "pistol" variant of the AR-556 rifle, "and marketed it in the weeks leading up to the mass shooting . . . ." Id., ¶ 9. As originally alleged by the plaintiffs, "[t]he AR-556 pistol variant featured the same rail system as other AR-15 style rifles while having an altered stock and barrel *to evade federal classification as a rifle*." (Emphasis added.)

Id., ¶ 10. The original complaints do not identify the federal statutory or regulatory provisions purportedly evaded by the defendant.

The original complaints go on to claim that the defendant "designed the AR-556 such that it would utilize the same ammunition and magazines as . . . AR-15s[,]" and that "[a]s a result of [the defendant's] design choice, the AR-556 is more deadly than other pistols on the market." Id., ¶¶ 11 and 12. Furthermore, the defendants "designed" the AR-556 pistol "to be sold with stabilizing braces that essentially allowed the weapon to be converted to a rifle while still preserving its classification as a pistol for regulatory purposes." (Emphasis added.) Id., ¶ 13.

The original complaints also make claims about the defendant's marketing and sales practices in connection with the AR-556 pistol. Thus, per the original complaints, "[i]n the weeks before the shooting," the defendant "marketed and sold the AR-556 pistol with a lower receiver 'fitted with an adjustable SB Tactical® SBA3® Pistol Stabilizing Brace® to aid in accuracy, balance and recoil management.'" Id., ¶ 14. According to the plaintiffs, the defendant's marketing and sale of the AR-556 with stabilizing arm braces "allowed [the] weapon to function as a stock-stabilized AR-15 rifle, *while evading regulations targeted at limiting AR-15-style rifles*." (Emphasis added.) Id., ¶ 15. Again, the regulations supposedly evaded by the defendant are not cited. The original complaints allege that AR-15s and AR-15-style weapons "have become the weapon of choice for mass shooters[,]" and further, that "AR-15-style pistols, like the AR-556, have been used in several mass shootings, . . ." Id., ¶ 16.

In the original complaints, the plaintiffs go on to claim that the defendant marketed the AR-556 pistols "by promoting their militaristic and assaultive uses[,]" and further, that it employed marketing methods that "promoted the image of its AR-556s as combat weapons used for the purpose of waging war and killing human beings"; and that the defendant's marketing efforts "glorified the lone gunman" and "promoted lone gunman assaults[.]" The defendant also purportedly promoted the AR-556 pistol by using such phrases as, "Anything else would be un-American"; "promoted its brand to children"; "glorified the military design, functionality and appearance of its AR-556s"; "promoted its AR-556s for mass casualty assaults"; "marketed its AR-556 as an affordable, 'entry-level' AR-15-style weapon"; and "promoted [the] criminal use of its AR-556s by its target market." Id., ¶¶ 17 through 26. The plaintiffs also allege that the defendant marketed, and continued to market, the AR-556, "knowing that [the weapon] would be accessed by unscreened customers"; "despite evidence of [its] increasing use in mass shootings"; and "in the wake of the Sandy Hook Elementary School shooting." Id., ¶¶ 27 through 29. The original complaints go on to allege that the defendant's conduct "constituted a knowing violation of [CUTPA],[4] and further, that the defendant's alleged conduct was a

[4] CUTPA reads, at section 42-110b, as follows: "(a) No person shall engage in unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce.

(b) It is the intent of the legislature that in construing subsection (a) of this section, the commissioner and the courts of this state shall be guided by interpretations given by the Federal Trade Commission and the federal courts to Section 5(a)(1) of the Federal Trade Commission Act (15 USC 45(a)(1)), as from time to time amended.

(c) The commissioner may, in accordance with chapter 54, establish by regulation acts, practices or methods which shall be deemed to be unfair or deceptive in violation of subsection (a) of this section. Such regulations shall not be inconsistent with the rules, regulations and decisions of the federal trade commission and the federal courts in interpreting the provisions of the Federal Trade Commission Act.

(d) It is the intention of the legislature that this chapter be remedial and be so construed." (Footnote omitted.)

General Statutes § 42-110g (a) provides in relevant part that: "*[a]ny* person who suffers an 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.)

In determining whether or not a party's conduct constitutes an unfair or deceptive trade practice, Connecticut applies the so-called "cigarette rule," which requires the court to consider "(1) [w]hether the practice, without necessarily having been previously considered unlawful, offends public policy as it has been established by statutes, the common law, or otherwise—whether, in other words, it is within at least the penumbra of some common law, statutory, or other established concept of unfairness; (2) whether it is immoral, unethical, oppressive, or unscrupulous; (3) whether it causes substantial injury to consumers . . . . All three criteria do not need to be satisfied to support a finding of unfairness. A practice may be unfair because of the degree to which it meets one of the criteria or because to a lesser extent it meets all three." (Citations omitted; internal quotation marks omitted.) *Jacobs* v. *Healey Ford-Subaru, Inc.,* 231 Conn. 707, 725, 652 A.2d 496 (1995); accord *Landmark Investment Group, LLC* v. *CALCO Construction & Development Co.,* 318 Conn. 847, 880–81, 124 A.3d 847 (2015).

"Thus[,] a violation of CUTPA may be established by showing either an actual deceptive practice . . . or a practice amounting to a violation of public policy. . . . In order to enforce this prohibition, CUTPA provides a private cause of action to [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 [prohibited] method, act or practice. . . ." (Internal quotation marks omitted.) *Ulbrich* v. *Groth*, 310 Conn. 375, 409–10, 78 A.3d 76 (2013).

CUTPA is "remedial in character . . . and must be liberally construed in favor of those whom the legislature intended to benefit." (Internal quotation marks omitted.) *Eder Bros., Inc.* v. *Wine Merchants of Connecticut, Inc.*, 275 Conn. 363, 379, 880 A.2d 138 (2005).

substantial factor in causing the deaths of the plaintiffs' decedents. Id., ¶¶ 39 and 40.

The original complaints sought damages from the defendant pursuant to § 52-555,[5] based upon alleged violations of CUTPA alone.

II

A

Less than four months after the return date, on August 8, 2023, the plaintiffs filed requests for leave to amend the original complaints. See Getz Action, Docket Entry No. 120; Stanisic Action, Docket Entry No. 1156. As set forth below, the amended complaints include additional detail regarding the defendant's purported design, marketing, and sale of the AR-556 pistol, and assert further legal grounds for the recovery of monetary damages from the defendant. The amended complaints also contain allegations concerning the specific federal statutory and regulatory provisions the plaintiffs claim were violated by the defendant.

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

On August 23, 2023, the defendant interposed objections to the requests for leave to amend. See Getz Action, Docket Entry No. 129; Stanisic Action, Docket Entry No. 1160. In these objections, the defendant argued that the amended complaints should not be allowed "on the ground that the [p]roposed [a]mended [c]omplaint[s] set[] forth an entirely new cause of action, based on five theories of liability (four of which were not previously [pleaded]), that is barred by the applicable two-year statute of limitations.[6] The new cause of action is not saved by the relation back doctrine because it is based on entirely new facts, none of which were [pleaded] by the [p]laintiffs in their original [c]omplaint . . . ." Id., p. 1.

On October 4, 2023, the court (*Bellis, J.*) overruled summarily the defendant's objections. Getz Action, Docket Entry No. 129.20; Stanisic Action, Docket Entry No. 1160.20. As a result, the operative complaints in these matters are the amended complaints dated August 8, 2023, to which the court now turns.

B

According to the amended complaints, on March 22, 2021, a twenty-one year old gunman, acting alone, arrived at the King Soopers supermarket in Boulder, Colorado—which was teeming with unsuspecting customers—armed with a Ruger AR-556 pistol, "which was actually a short-barreled rifle." See Stanisic Action, Docket Entry No. 1156, ¶ 22. Further according to the plaintiffs, after arriving at the supermarket, the gunman—Ahmad Al-Aliwi Alissa—opened fire indiscriminately, "firing the 'pistol' from his shoulder just like an AR-15-style short-barreled rifle,

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[6] That is, the two-year limitations period of § 52-555. See footnote 5, supra.

leaving no opportunity for the terrified customers to flee. In less than [eight] minutes, the shooter killed ten people . . . ." Id. The plaintiffs' decedents were among the slain.[7]

The plaintiffs allege that the defendant "manufactured, marketed, and sold AR-556 full-length rifles and short-barreled rifles, the latter of which [the defendant] misleadingly called 'pistols'." Id. Moreover, the defendant purportedly "manufactured the semi-automatic AR-556 '[p]istol' that was used in the shooting . . . on March 22, 2021, . . ." Id., ¶ 3.

By way of history, the plaintiffs contend that the defendant "designed the AR-556 and introduced it in 2014 as a full-length entry-level, AR-15-style rifle." Id., ¶ 9. Thereafter, in 2019, the defendant "introduced a 'pistol' variant of the AR-556 [r]ifle line and marketed it" with a promotional image of the weapon,[8] "including in the

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

[8] The amended complaints contain the following image, accompanied by the description, "*Ruger promotional image of an AR-556 Pistol*":

weeks leading up to the mass shooting . . . ." Id., ¶ 10. According to the plaintiffs, "AR-556 '[p]istols' function similarly to [the defendant's] full-length AR-556 [r]ifles but have shortened barrels. . . . [T]he 'pistol' variant [was assembled] with an altered stock in an attempt to circumvent the requirements of federal law applicable to short-barreled rifles." Id., ¶ 11.

More specifically, the plaintiffs claim that the defendant's AR-556 pistol was equipped with a stabilizing brace that allowed the shooter to fire it with just one hand, "enabl[ing] and intend[ing] shooters to brace the weapons against their shoulders while firing—like short-barreled rifles." Id., ¶ 13. The plaintiffs also claim that the defendant entered into a business relationship with a third-party stabilizing brace manufacturer, SB Tactical,[9] as part of the defendant's efforts to "cater to civilian consumer demand for short-barreled rifles available outside the rigorous, expensive, and time-consuming [National Firearms Act of 1934 (NFA), 26 U.S.C. § 5801 et seq.] approval process and, in order to maintain plausible deniability while producing such unlawful short-barreled rifles, substituted [third-party] braces for conventional shoulder stocks." Id., ¶¶ 65 through 71.

The plaintiffs allege that the defendant designed the AR-556 pistol to "utilize the same ammunition and magazines as the full-length AR-556 [r]ifles and other AR-

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See Getz Action, Amended Complaint, counts one through five, ¶ 6; Stanisic Action, Amended Complaint, counts one through twenty five, ¶10.

[9] According to the plaintiffs, SB Tactical is "a company that mocks, and even openly defies, the ATF [Bureau of Alcohol, Tobacco, Firearms and Explosives]." Stanisic Action, Docket Entry No. 1156, ¶ 68.

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

As these allegations suggest, in the amended complaints, the plaintiffs dispute the defendant's characterization of the AR-556 as a "pistol". Rather, they contend repeatedly that the AR-556 is actually "an AR-15-style weapon. It is more similar in design and function to a full-length AR-15 rifle than it is to a typical 9-mm pistol." Id., ¶ 34. See also Id., ¶ 26 n.1 (the defendant's "AR-556 '[p]istols' were in fact short-barreled rifles, not pistols"). In support of their claim that the defendant's AR-556 pistol is actually a short-barreled rifle masquerading as a pistol, the plaintiffs claim that: (1) the defendant marketed the pistols "as being designed like rifles"; (2) the pistol's shorter barrel makes it easier to conceal, transport, and maneuver in tight spaces; (3) the AR-556 pistol is "designed to use rifle-caliber ammunition rather than handgun ammunition" and "wounds caused by high-velocity, rifle-caliber ammunition generally cause more widespread and catastrophic damage to the human body"; and (4) the "[s]houldering" of the AR-556 pistol design "enables a shooter to direct the rifle's firepower more accurately and better manage" its recoil. Id., ¶¶ 35 through 38. As a result, the AR-556 pistol "combine[s] devastating firepower with the concealability and maneuverability of smaller guns." Id., ¶ 39.

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

The amended complaints invoke two federal statutes—namely, the NFA and the Gun Control Act of 1968 (GCA), 18. U.S.C. § 921 et seq.—and assert that these statutes were knowingly violated by the defendant. The plaintiffs allege that all firearms are regulated by the GCA and further, that "[s]hort-barreled rifles and other particularly dangerous firearms are . . . regulated by the . . . NFA . . . ." Id., ¶¶ 40 and 41. The plaintiffs also allege that, because of its particular specifications and characteristics, the defendant's AR-556 pistol constitutes a short-barreled rifle that is regulated by the NFA and GCA. These characteristics include a weapon having a barrel that is less than sixteen inches in length, and that is designed, made, and intended to be fired while braced against the shoulder. Id., ¶ 45. Under the NFA,

manufacturers of such weapons must (1) pay a special occupational tax pursuant to 26 U.S.C. § 5801,[10] and 27 C.F.R. §§ 479.31, 479.32, 479.34 through 479.39; and (2) register each short-barreled rifle in the National Firearms Registration and Transfer Record, and, before transferring the weapon, file a transfer application with the ATF and obtain ATF approval for the transfer pursuant to 26 U.S.C. § 5812,[11] and 27 C.F.R. §§ 479.84 through 479.87 and 479.101 through 479.103. Stanisic Action, Docket Entry No. 1156, ¶¶ 47 and 48. Failure to register and transfer a short-barreled rifle in accordance with NFA requirements subjects the weapon to seizure and forfeiture, and violators to criminal penalties. Id., ¶ 49 (citing 26 U.S.C. §§ 5871[12]

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[10] "(a) General rule.—On 1st engaging in business and thereafter on or before July 1 of each year, every importer, manufacturer, and dealer in firearms shall pay a special (occupational) tax for each of place of business at the following rates: . . ."

[11] "(a) Application.—A firearm shall not be transferred unless (1) the transferor of the firearm has filed with the Secretary a written application, in duplicate, for the transfer and registration of the firearm to the transferee on the application form prescribed by the Secretary; (2) any tax payable on the transfer is paid as evidenced by the proper stamp affixed to the original application form; (3) the transferee is identified in the application form in such manner as the Secretary may by regulations prescribe, except that, if such person is an individual, the identification must include his fingerprints and his photograph; (4) the transferor of the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; (5) the firearm is identified in the application form in such manner as the Secretary may by regulations prescribe; and (6) the application form shows that the Secretary has approved the transfer and the registration of the firearm to the transferee. Applications shall be denied if the transfer, receipt, or possession of the firearm would place the transferee in violation of law.

"(b) Transfer of possession.—The transferee of a firearm shall not take possession of the firearm unless the Secretary has approved the transfer and registration of the firearm to the transferee as required by subsection (a) of this section."

[12] "Any person who violates or fails to comply with any provision of this chapter shall, upon conviction, be fined not more than $10,000, or be imprisoned not more than ten years, or both."

and 5872[13]). The GCA also prohibits manufacturers from selling or delivering short-barreled rifles without proper authorization. Id., ¶ 50 (citing 18 U.S.C. § 922 (b) (4)[14]). Moreover, and as noted above, the plaintiffs allege that the NFA directs a purchaser to complete an application and obtain ATF approval before purchasing a short-barreled rifle. Id., ¶ 52. This application process includes the completion of "ATF Form 4," which requires the provision of fingerprints, as well as payment of a transfer tax, notification to law enforcement in the purchaser's locality, and a background check. Id., ¶ 53 (citing 27 C.F.R. §§ 479.84[15] and 479.85).

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[13] "(a) Laws applicable.—Any firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture, and (except as provided in subsection (b)) all the provisions of internal revenue laws relating to searches, seizures, and forfeitures of unstamped articles are extended to and made to apply to the articles taxed under this chapter, and the persons to whom this chapter applies."

"(b) Disposal.—In the case of the forfeiture of any firearm by reason of a violation of this chapter, no notice of public sale shall be required; no such firearm shall be sold at public sale; if such firearm is forfeited for a violation of this chapter and there is no remission or mitigation of forfeiture thereof, it shall be delivered by the Secretary to the Administrator of General Services, General Services Administration, who may order such firearm destroyed or may sell it to any State, or possession, or political subdivision thereof, or at the request of the Secretary, may authorize its retention for official use of the Treasury Department, or may transfer it without charge to any executive department or independent establishment of the Government for use by it."

[14] "It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver— . . . (4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; . . ."

[15] 26 C.F.R. § 479.84 provides in relevant part: "(a) General. Except as otherwise provided in this subpart, no firearm may be transferred in the United States unless an application, Form 4 (5320.4), Application for Tax Paid Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury, to transfer the firearm and register it to the transferee has been filed with and approved by the Director. The application shall be filed by the transferor. If the transferee is not a

licensed manufacturer, importer, or dealer qualified under this part and is a partnership, company (including a Limited Liability Company (LLC)), association, trust, or corporation, all information on the Form 4 application shall be furnished for each responsible person of the transferee.

"(b) Preparation of ATF Form 4. All of the information called for on Form 4 shall be provided, including:

"(1) The type of firearm being transferred. If the firearm is other than one classified as 'any other weapon,' the applicant shall submit a remittance in the amount of $200 with the application in accordance with the instructions on the form. If the firearm is classified as 'any other weapon,' the applicant shall submit a remittance in the amount of $5;

"(2) The identity of the transferor by name and address and, if the transferor is other than a natural person, the title or legal status of the person executing the application in relation to the transferor;

"(3) The transferor's Federal firearms license number (if any);

"(4) The transferor's special (occupational) tax stamp (if any);

"(5) The identity of the transferee by name and address and, if the transferee is a person not qualified as a manufacturer, importer, or dealer under this part, the transferee shall be further identified in the manner prescribed in § 479.85;

"(6) The transferee's Federal firearms license number (if any);

"(7) The transferee's special (occupational) tax stamp (if applicable); and

"(8) A description of the firearm to be transferred by name and address of the manufacturer or importer (if known); caliber, gauge, or size; model; serial number; in the case of a short-barreled shotgun or a short-barreled rifle, the length of the barrel; in the case of a weapon made from a rifle or shotgun, the overall length of the weapon and the length of the barrel; and any other identifying marks on the firearm. In the event the firearm does not bear a serial number, the applicant shall obtain a serial number from ATF and shall stamp (impress) or otherwise conspicuously place such serial number on the firearm in a manner not susceptible of being readily obliterated, altered, or removed.

"(9) If the transferee (including, if other than an individual, any responsible person) is an alien admitted under a nonimmigrant visa, applicable

According to the plaintiffs, "[a]s of March 2021, the ATF's average processing time for a retail consumer's application to purchase an NFA-regulated firearm was seven months." Id., ¶ 54.

Based on the foregoing and other factual contentions, the plaintiffs claim that the defendant produced, assembled, and distributed short-barreled rifles in violation of the NFA and GCA; that it deceptively marketed its AR-556 pistol as lawful for civilian consumers to buy; that it unfairly marketed its AR-556 pistol as rifle-like in design; that it deceptively marketed its AR-556 as a pistol "for purposes of federal law," rather than as a short-barreled rifle; and that the defendant unfairly marketed and sold its AR-556 product lines by promoting, directly and indirectly, their assaultive and/or militaristic uses. Id., ¶ 113, subparagraph a. through e. Finally, according to the plaintiffs, "AR-15-style weapons have become the weapon of choice for the deadliest mass shooters and, since their introduction to the market, AR-15-style 'pistols,' like the AR-556, have been used in multiple mass shootings, including the shooting that is the subject of this action." Id., ¶ 21.

C

The plaintiffs claim that Alissa, the perpetrator of the mass shooting at issue, had a history of misdemeanor assault and acquired the defendant's AR-556 pistol "on March 16, 2021, a mere *six days* before the mass shooting." (Emphasis in original.) Id., ¶¶ 23 and 100. Alissa purchased the weapon from a licensed federal firearms

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documentation demonstrating that the nonimmigrant alien falls within an exception to 18 U.S.C. 922 (g) (5) (B) under 18 U.S.C. 922 (y) (2), or has obtained a waiver of that provision under 18 U.S.C. 922 (y) (3)."

dealer in Arvada, Colorado, which does not sell weapons subject to the NFA vetting process. Id., ¶¶ 100, 101, and 105.

According to the plaintiffs, Alissa was able to bypass the rigorous and months-long application process, and kill ten people with the weapon, because the defendant "knowingly designed, made, and intended the AR-556 '[p]istol' to be fired from the shoulder and made a callous and disingenuous decision to manufacture, market, and sell this type of weapon as an AR-15-style 'pistol' rather than as what it is: a short-barreled rifle. In doing so, [the defendant] unlawfully marketed and sold these weapons by bypassing critical safety requirements imposed by federal law." Id., ¶ 25.[16] The plaintiffs maintain that the defendant's wrongful conduct was a proximate cause of their decedents' deaths. Id., ¶ 26.

Based upon these and other allegations in the amended complaints, the plaintiffs allege claims pursuant to CUTPA, and in negligence, negligence per se, public nuisance, and common law recklessness.

III

On March 31, 2025, the defendant filed motions to strike the amended complaints in their entirety.[17] See Getz Action, Docket Entry No. 185; Stanisic

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

[17] Prior to submitting the motions to strike now before the court, the defendant filed motions to dismiss based on the doctrine of forum non conveniens, arguing that Connecticut was an inappropriate forum for the litigation of the plaintiffs' claims. The motions to dismiss were denied by the court (*Pierson, J.*) on February 27, 2025. See Memorandum of Decision Re Motions to Dismiss Based on Forum Non

Action, Docket Entry No. 1211. In its motions, the defendant argues that: (1) the new allegations of the amended complaints are time-barred by operation of § 52-555;[18] (2) the plaintiffs lack standing to maintain a CUTPA claim for "false representation," under count one, "because they were not consumers who acquired the firearm"; (3) the "false representation" CUTPA claim of count one is barred by the PLCAA; (4) the plaintiffs fail to allege sufficiently that the defendant's wrongful conduct—and in particular, the claim that the defendant wrongfully marketed the AR-556 pistol for "assaultive and/or militaristic uses"—was a proximate cause of the plaintiffs' claimed injuries and damages; (5) the plaintiffs' negligence per se claims do not qualify for exemption from immunity under the PLCAA because the statute's negligence per se exception is limited to firearms sellers, and the defendant is not alleged to be a firearms seller; and (6) to the extent they are not based upon knowing violations of a predicate statute, the plaintiffs' remaining common law claims are barred by the immunity conferred by the PLCAA.[19]

Conveniens dated February 27, 2025 (Getz Action, No. 179; Stanisic Action, No. 1207).

[18] In the motions to strike, the defendant argues, more narrowly, that "[t]he CUTPA claim advanced in Count One [that the defendant] violated [the GCA and NFA] by falsely representing a firearm as a handgun is barred by the applicable two-year statute of limitations set forth in § 52-555, . . ." In its supporting memoranda of law, the defendant argues, more broadly, that "[i]n contrast to the Original Complaint's lone marketing cause of action, the Amended Complaint focuses on an entirely different factual situation: the firearm's design, federal regulatory classification, and intended use." See Stanisic Action, Docket Entry No. 1211, p. 6. The court considers the defendant's motions as outlined more expansively in its supporting memoranda of law.

[19] At this stage of the proceedings, the court does not address any potential conflict of laws issue, as between Connecticut and Colorado, that may arise in connection with

The plaintiffs object. To begin, in their opposition brief, the plaintiffs assert that a prior order of this court, overruling the defendant's objection to the amended complaints on the ground of untimeliness, constitutes the law of the case as to whether the new allegations are time barred. Moreover, the plaintiffs contend that, as the amended complaints merely amplify what was previously alleged—and, thus, relate back to the original pleadings—the claims are not barred by the statute of limitations. In addition, the plaintiffs argue that they do not have to be consumers of the defendant's product to have standing to maintain their CUTPA claims, and that their CUTPA claims are not barred by the PLCAA. They further argue that, in the circumstances of these cases, the issue of proximate causation is one of fact that is not amenable to resolution on a motion to strike, and alternatively, that they have

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the plaintiffs' claims and defendant's defenses herein. In its briefs in support of the motions to strike now pending before the court, the defendant does not argue that its motions to strike should be granted, in whole or in part, based on Colorado law. Rather, its substantive arguments are based largely upon Connecticut and federal legal authorities. Moreover, the defendant refers to the harmony between Connecticut and Colorado law with respect to the relevant issues before the court. See Docket Entry No. 1212, p. 3 n.1 ("The question of whether the Connecticut or Colorado wrongful death statute of limitations governs [the p]laintiff's wrongful death claims need not be addressed because the statute of limitations governing wrongful death actions is the same in both jurisdictions . . . ."); Id., p. 26 n.9 ("A public nuisance under both Connecticut and Colorado law requires proof that the defendant's conduct was unreasonable and had a tendency to inflict harm on others."). As previously held by this court, when the "sources of law are in harmony with respect to the issues raised by [a] motion, no conflicts of law exist. As a result, the court need not engage in a strict or exhaustive analysis of which law to apply. See, e.g., *Pantelopoulos* v. *Pantelopoulos*, 49 Conn. Supp. 209, 283–84, 869 A.2d 280 (2005) [38 Conn. L. Rptr. 621] (it is unnecessary to engage in conflict of laws analysis where no conflict exists between the applicable laws of several jurisdictions.)." *Silverstone* v. *Connecticut Eye Surgery Center South, LLC*, Superior Court, judicial district of New Haven, Docket No. CV-18-6080472-S (October 23, 2018, *Pierson, J.*).

alleged sufficient facts in support of the necessary element of causation. Finally, the plaintiffs contend that their claims are not barred by PLCAA immunity, insofar as all of their statutory and common law causes of action satisfy the "predicate exception" to immunity under the act. See generally Getz Action, Docket Entry No. 197; Stanisic Action, Docket Entry No. 1221. Finally, according to the plaintiffs, as all of their claims—including the claim in negligence per se— satisfy the predicate exception to PLCAA, the court does not need to address whether their negligence per se theory also satisfies the separate exception applicable to such claims under the PLCAA. The defendant filed reply briefs. See Getz Action, Docket Entry No. 302; Stanisic Action, Docket Entry No. 1227. Oral argument was held on July 21, 2025, on which date these matters were taken under advisement.

DISCUSSION

I

"[A] motion to strike challenges the legal sufficiency of a pleading . . . ." (Internal quotation marks omitted.) *Eskin* v. *Castiglia*, 253 Conn. 516, 522, 753 A.2d 927 (2000); see also Practice Book § 10-39 (a); *Cadle Co.* v. *D'Addario*, 131 Conn. App. 223, 230, 26 A.3d 682 (2011). The standard of review applicable to motions to strike is well established. As the motion is directed to the viability of a party's pleading as a matter of law, the court's inquiry is limited to the facts alleged in the challenged pleading. *Novametrix Medical Systems, Inc.* v. *BOC Group, Inc.*, 224 Conn. 210, 214–15, 618 A.2d 25 (1992). Any consideration of matters outside the pleadings is generally prohibited. *Liljedahl Bros., Inc.* v. *Grigsby*, 215 Conn. 345, 348, 576 A.2d

149 (1990) ("[i]n deciding upon a motion to strike . . . a trial court must take the facts to be those alleged in the [pleadings] . . . and cannot be aided by the assumption of any facts not therein alleged" [citations omitted; internal quotation marks omitted]).

Although the court is thus limited to an examination of the pleadings on a motion to strike, "[w]hat is necessarily implied [in an allegation] need not be expressly alleged". *Pamela B.* v. *Ment*, 244 Conn. 296, 308, 709 A.2d 1089 (1998). The court is required to "read the allegations of the [challenged pleading] generously to sustain its viability . . . ." *Sherwood* v. *Danbury Hospital*, 252 Conn. 193, 212, 746 A.2d 730 (2000); see also *Faulkner* v. *United Technologies Corp.*, 240 Conn. 576, 580, 693 A.2d 293 (1997) (in keeping with its obligation to interpret pleading generously, "[t]he court must construe the facts in the [challenged pleading] most favorably to the [claimant]" [internal quotation marks omitted]).

Even so, a motion to strike "does not admit legal conclusions or the truth or accuracy of opinions stated in the pleadings." (Emphasis omitted.) *Mingachos* v. *CBS, Inc.*, 196 Conn. 91, 108, 491 A.2d 368 (1985). Thus, the motion must be granted "if the complaint alleges mere conclusions of law that are unsupported by the facts alleged." *Novametrix Medical Systems, Inc.* v. *BOC Group, Inc.*, supra, 224 Conn. 215. "For the purpose of ruling upon a motion to strike, the facts alleged in a [challenged pleading] . . . are deemed to be admitted." (Internal quotation marks omitted.) *DeConti* v. *McGlone*, 88 Conn. App. 270, 271 n.1, 869 A.2d 271, cert. denied, 273 Conn. 940, 875 A.2d 42 (2005).

Here, the court observes that the defendant's argument that the amended complaints are time-barred by operation of § 52-555 is properly raised by way of a motion to strike. Typically, a statute of limitations is invoked by way of special defense and is presented to the court for determination, on a pretrial basis, by means of a motion for summary judgment. See *Koushouris* v. *Shoreline Pools, Inc.*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-25-6071414-S (July 23, 2025, *Krumeich, J.T.R.*) ("whether a statute of limitations or a statute of repose bars an action typically is resolved on a motion for summary judgment rather than a motion to strike." [internal quotation marks omitted]) See also *Gaddy* v. *Mount Vernon Fire Insurance Company*, 192 Conn. App. 337, 344, 217 A.3d 1082 (2019) ("Summary judgment is appropriate on statute of limitations grounds when the material facts concerning the statute of limitations are not in dispute." [internal quotation marks omitted.]). However, in certain limited circumstances, the issue may be decided on a motion to strike. Our Supreme Court has observed that, "ordinarily, [a] claim that an action is barred by the lapse of a statute of limitations must be pleaded as a special defense, not raised by a motion to strike. . . . This is because a motion to strike challenges only the legal sufficiency of the complaint and might . . . deprive a plaintiff of an opportunity to plead matters in avoidance of the statute of limitations defense. . . . An exception to this general rule exists, however, when a statute gives a right of action which did not exist at common law, and fixes the time within which the right must be enforced, the time fixed is a limitation or condition attached to the right—it is a limitation of the liability itself as created, and

not of the remedy alone. . . . *Because § 52-555 creates liability where none formerly existed at common law . . . it is undisputed that the defendants properly raised the limitation period of § 52-555 in a motion to strike*." (Citations omitted; emphasis added; internal quotation marks omitted.) *Greco* v. *United Technologies Corp*., 277 Conn. 337, 344–45 n.12, 890 A.2d 1269 (2006).

While *Greco* holds that the use of a motion to strike is a proper means of raising a statute of limitations defense under § 52-555, the limitations period of that statute has also been held by our Supreme Court to implicate the *subject matter jurisdiction* of the court. Thus, in considering the limitations period of § 52-555, our Supreme Court observed that "[w]here . . . a specific time limitation is contained within a statute that creates a right of action that did not exist at common law, then the remedy exists only during the prescribed period and not thereafter. . . . In such cases, the time limitation is not to be treated as an ordinary statute of limitations, but rather is a limitation on the liability itself, and not the remedy alone. . . . The courts of Connecticut have repeatedly held that, under such circumstances, the time limitation is a substantive and *jurisdictional prerequisite*, which may be raised *at any time*, even by the court sua sponte, and *may not be waived*." (Citations omitted; emphasis added.) *Ecker* v. *West Hartford*, 205 Conn. 219, 232, 530 A.2d 1056 (1987). See also *Harvey* v. *Department of Correction*, 337 Conn. 291, 304, 253 A.3d 931 (2020) ("a plaintiff who brings an action for wrongful death [is required] to comply with both the two year statute of limitations contained in § 52-555 (a) and the limitation period contained in the statute providing the underlying theory of liability, when that theory

did not exist at common law. . . . On the basis of the foregoing, we conclude that the Appellate Court properly upheld the trial court's granting of the state's *motion to dismiss for lack of subject matter jurisdiction*." [Emphasis added.]).

Ordinarily, issues of subject matter jurisdiction are raised by a motion to dismiss, and the court concludes that a motion to dismiss is also a proper—and the preferred—mechanism for raising the two year limitations period of § 52-555. See Practice Book § 10-30 (a) ("[a] motion to dismiss *shall be used* to assert: (1) lack of jurisdiction over the subject matter . . . ." [emphasis added]); *Levatino* v. *St. Vincent's Medical Center*, Superior Court, judicial district of Waterbury, Complex Litigation Docket, Docket No. CV-17-6049870-S (December 27, 2021, *Bellis, J.*) ("a motion to dismiss is the proper procedural vehicle to address a statute of limitations issue within the context of § 52-555."); *Choezin* v. *Boston Culinary Group*, Superior Court, judicial district of New London, Docket No. CV-17-6030910-S (November 6, 2018, *Swienton, J.*) (67 Conn. L. Rptr. 362) ("The court finds that the two-year statute of limitations of § 52-555 is jurisdictional, and subject to a motion to dismiss.").

Given the authorities just cited, as well as the Supreme Court's holding in *Greco*, the court concludes that the issue of the limitations period of § 52-555 may be raised by way of a motion to dismiss, a motion to strike, *or by other means*, because "once the question of lack of [subject matter] jurisdiction of a court is raised, [it] must be disposed of *no matter in what form it is presented* . . . ." (Emphasis added; internal quotation marks omitted.) *Liberty Mutual Ins. Co.* v. *Lone Star Industries, Inc.*, 290 Conn. 767, 812, 967 A.2d 1 (2009). However, and while "[i]t is permissible to raise

this issue in a motion to strike, . . . because it is an issue of subject matter jurisdiction, courts should apply *the procedural law applicable to motions to dismiss*." (Emphasis added.) *Matyas* v. *Giulietti*, Superior Court, judicial district of Litchfield, Docket No. CV-19-6023093-S (May 13, 2020, *Shaban, J.*).

The defendant's argument that the plaintiffs lack CUTPA *standing* because they were not consumers who acquired the AR-556 pistol used by Alissa also raises an issue of subject matter jurisdiction. By challenging the plaintiffs' standing to maintain aspects of the CUTPA counts, the defendant is challenging the subject matter jurisdiction of the court with respect to those claims. See *Wilcox* v. *Webster Ins., Inc.*, 294 Conn. 206, 213, 982 A.2d 1053 (2009) ("[t]he issue of standing implicates subject matter jurisdiction and is therefore a basis for granting a motion to dismiss" [internal quotation marks omitted]). See also *Christ-Janer* v. *A.F. Conte & Co.*, 8 Conn. App. 83, 90, 511 A.2d 1017 (1986) ("[w]here a party is found to lack standing, the court is consequently without subject matter jurisdiction to determine the cause [of action]").

As the defendant's arguments based upon the statute of limitations in § 52-555, and the plaintiffs' purported lack of standing under CUTPA, both raise questions of subject matter jurisdiction, the court also reviews the legal standard applicable to motions to dismiss. "Trial courts addressing motions to dismiss for lack of subject matter jurisdiction pursuant to § 10-3[0] (a) (1) may encounter different situations, depending on the status of the record in the case. . . . [L]ack of subject matter jurisdiction may be found in any one of three instances: (1) the complaint alone; (2)

the complaint supplemented by undisputed facts evidenced in the record; or (3) the complaint supplemented by undisputed facts plus the court's resolution of disputed facts. . . . Different rules and procedures will apply, depending on the state of the record at the time the motion is filed." (Citation omitted; internal quotation marks omitted.) *Conboy* v. *State*, 292 Conn. 642, 650–51, 974 A.2d 669 (2009). "When a trial court decides a jurisdictional question raised by a pretrial motion to dismiss on the basis of the complaint alone, it must consider the allegations of the complaint in their most favorable light. . . . In this regard, a court must take the facts to be those alleged in the complaint, including those facts necessarily implied from the allegations, construing them in a manner most favorable to the pleader. . . . In contrast, if the complaint is supplemented by *undisputed facts* established by affidavits submitted in support of the motion to dismiss . . . other types of undisputed evidence . . . and/or public records of which judicial notice may be taken . . . the trial court, in determining the jurisdictional issue, may consider these supplementary undisputed facts and need not conclusively presume the validity of the allegations of the complaint. . . . Rather, those allegations are tempered by the light shed on them by the [supplementary undisputed facts]. . . . If affidavits and/or other evidence submitted in support of a defendant's motion to dismiss conclusively establish that jurisdiction is lacking, and the plaintiff fails to undermine this conclusion with counteraffidavits . . . or other evidence, the trial court may dismiss the action without further proceedings. . . . If, however, the defendant submits either no proof to rebut the plaintiff's jurisdictional allegations . . . or only evidence that fails to call those allegations into

question . . . the plaintiff need not supply counteraffidavits or other evidence to support the complaint, but may rest on the jurisdictional allegations therein." (Citations omitted; emphasis in original; internal quotation marks omitted.) Id., 651–52. "A plaintiff, in presenting facts sufficient to establish the court's jurisdiction, must present specific, and not simply conclusory, allegations." *Matthews* v. *SBA, Inc.*, 149 Conn. App. 513, 552, 89 A.3d 938, cert. denied, 312 Conn. 917, 94 A.3d 642 (2014). The motions to strike before the court are submitted and decided under the first of the three instances outlined in *Conboy*—namely, the plaintiffs' original and amended complaints alone.

II

The court begins with the defendant's argument that the new allegations set forth in the amended complaints—including the defendant's purported violations of the NFA and GCA—are time-barred by operation of the two-year statute of limitations set forth in our wrongful death statute, § 52-555, as the plaintiffs failed to asset these factual and legal contentions within two years of the March 22, 2021 mass shooting. This requires the court to decide: (1) whether to apply the law of the case doctrine to Judge Bellis' October 4, 2023 Order overruling the defendant's objection to the amended complaints, and (2) relatedly, whether the plaintiffs' new claims, including those involving purported NFA and GCA violations, relate back to the dates of the original complaints, and are, therefore, timely brought.

A

"The law of the case doctrine expresses the practice of judges generally to refuse to reopen what has been decided . . . ." (Internal quotation marks omitted.) *Kellogg* v. *Middlesex Mutual Assurance Company*, 211 Conn. App. 335, 352, 272 A.3d 677 (2022). As observed by our Supreme Court, "[a] judge should hesitate to change [their] own rulings in a case and should be even more reluctant to overrule those of another judge. . . . Judge shopping is not to be encouraged and a decent respect for the view of [their colleagues] on the bench is commendable in a judge." *Breen* v. *Phelps*, 186 Conn. 86, 99–100, 439 A.2d 1066 (1986). Thus, "[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." *Vidiaki, LLC* v. *Just Breakfast and Things!!! LLC*, 133 Conn. App. 1, 7, 33 A.3d 848 (2012).

Even so, the law of the case doctrine is not rigid in its application. It has long been observed that the doctrine "is not written in stone but is a flexible principle of many facets adaptable to the exigencies of the different situations in which it may be invoked." *Breen* v. *Phelps*, supra, 186 Conn. 99. The doctrine does not constitute "a limitation on [a judge's] power." Id. Rather, "[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 . . . . [T]he law of the case doctrine does not preclude a judge from deciding an issue in a way contrary to how it was decided by a predecessor judge in the same case. . . . [I]t provides that judges may treat a prior ruling as the law of the case if they agree with the determination. He or she may,

however, decide the issue differently if he or she is convinced that the prior decision is wrong." (Internal quotation marks omitted.) *Kellogg* v. *Middlesex Mutual Assurance Company*, supra, 211 Conn. App. 352.

As the defendant opposed the plaintiffs' requests for leave to amend based exclusively on the statute of limitations and the relation back doctrine, the court concludes that Judge Bellis necessarily considered and rejected those arguments when she overruled the defendant's objections. Moreover, given the interlocutory nature of her October 4, 2023 Order, and this court's agreement with Judge Bellis that the plaintiffs' new claims are not time barred, the law of the case doctrine applies here. However, in light of the summary nature of the October 23, 2023 Order, the court explains below why the plaintiffs' NFA and GCA claims relate back to their original pleadings and the amended complaints were properly allowed.

B

"The granting or denial of a motion to amend the pleadings is a matter within the trial court's discretion." (Internal quotation marks omitted.) *Deutsche Bank National Trust Co.* v. *Speer*, 225 Conn. App. 439, 446, 315 A.3d 1154 (2024). "A trial court may allow, in its discretion, an amendment to pleadings before, during, or after trial to conform to the proof. . . . Factors to be considered in passing on a motion to amend are the length of the delay, fairness to the opposing parties and the negligence, if any, of the party offering the amendment. . . . The essential tests are whether the ruling of the court will work an injustice to either the plaintiff or the defendant and whether the granting of the motion will unduly delay a trial." (Internal quotation

marks omitted.) *Rodriguez* v. *City of Hartford*, 224 Conn. App. 314, 325, 312 A.3d 85, cert. denied, 349 Conn. 907, 313 A.3d 512 (2024). See also *McLaughlin* v. *Charette*, 7 Conn. App. 570, 573, 509 A.2d 1068 (1986) ("[t]he trial court has wide discretion in granting or denying amendments before, during, or after trial." [internal quotation marks omitted]).

Connecticut courts are liberal in allowing amendments to a pleading. As observed by our Appellate Court, "[i]n the interest of justice courts are liberal in permitting amendments; unless there is a sound reason, refusal to allow an amendment is an abuse of discretion. . . . The trial court is in the best position to assess the burden which an amendment would impose on the opposing party in light of the facts of the particular case. The essential tests are whether the ruling of the court will work an injustice to either the plaintiff or the defendant and whether the granting of the motion will unduly delay a trial. . . . In exercising its discretion with reference to a motion for leave to amend, a court should ordinarily be guided by its determination of the question whether the greater injustice will be done to the mover by denying him his day in court on the subject matter of the proposed amendment or to his adversary by granting the motion, with the resultant delay. . . . The law of this state favors courts allowing amendments in the absence of some sound basis for not doing so, . . . particularly if the record fails to disclose some significant injustice or prejudice to the nonmoving party." (Citations omitted; emphasis omitted; internal quotation marks omitted.) *Ocwen Loan Servicing, LLC* v. *Mordeca*i, 209 Conn. App. 483, 498–99, 268 A.3d 704 (2021); see also *McPhee Electric Ltd., LLC* v. *Konover*

Construction Corp., Superior Court, judicial district of New Haven, Docket No. CV-07-5009694-S (October 22, 2009, *Lager, J.*) ("[a]s a matter of policy expressed in statute, General Statutes § 52-130, court rule, Practice Book § 10-60, and case law, see, e.g., *Johnson* v. *Toscano*, 144 Conn. 582, 587, 136 A.2d 341 (1957), Connecticut liberally permits the amendment of pleadings").

Nevertheless, "[w]hile our courts have been liberal in permitting amendments . . . this liberality has limitations. . . . Factors to be considered in passing on a motion to amend are the length of the delay, fairness to the opposing parties and the negligence, if any, of the party offering the amendment. . . . The motion . . . is addressed to the trial court's discretion . . . . Whether to allow an amendment is . . . left to the sound discretion of the trial court." (Internal quotation marks omitted.) *LaFrance* v. *Lodmell*, 322 Conn. 828, 846–47, 144 A.3d 373 (2016).

An additional limitation on the ability of a party to amend their pleadings is imposed by our relation back doctrine. The doctrine is well established in Connecticut. See *Briere* v. *Greater Hartford Orthopedic Group, P.C.*, 325 Conn. 198, 207, 157 A.3d 70 (2017). "There is a well settled body of case law holding that a party properly may amplify or expand what has already been alleged in support of a cause of action, provided the identity of the cause of action remains substantially the same. . . . If a new cause of action is alleged in an amended complaint . . . it will [speak] as of the date when it was filed. . . . 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. . . . It is proper to amplify or expand what has

already been alleged in support of a cause of action, provided the identity of the cause of action remains substantially the same, but [when] an entirely new and different factual situation is presented, a new and different cause of action is stated. . . . *DiLieto* v. *County Obstetrics & Gynecology Group, P.C.*, 297 Conn. 105, 140, 998 A.2d 730 (2010). (Emphasis in original; footnote omitted.) *Finkle* v. *Carroll*, 315 Conn. 821, 837–38, 110 A.3d 387 (2015) . . . .

"Our relation back doctrine provides that an amendment relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of our statute of limitations, namely, to protect parties from having to defend against stale claims . . . . *Barrett* v. *Danbury Hospital*, 232 Conn. 242, 263–64, 654 A.2d 748 (1995). (Internal quotation marks omitted.) *Alswanger* v. *Smego*, 257 Conn. 58, 65, 776 A.2d 444 (2001). [I]n the cases in which we have determined that an amendment does not relate back to an earlier pleading, the amendment presented different issues or depended on different factual circumstances rather than merely amplifying or expanding upon previous allegations. *Grenier* v. *Commissioner of Transportation*, 306 Conn. 523, 560, 51 A.3d 367 (2012). . . .

"When comparing [the original and proposed amended] pleadings, we are mindful that, '[i]n Connecticut, we have long eschewed the notion that pleadings should be read in a hypertechnical manner. Rather, [t]he modern trend, which is followed in Connecticut, is to construe pleadings broadly and realistically, rather than narrowly and technically. . . . [T]he complaint must be read in its entirety in such a

way as to give effect to the pleading with reference to the general theory upon which it proceeded, and do substantial justice between the parties. . . . Our reading of pleadings in a manner that advances substantial justice means that a pleading must be construed reasonably, to contain all that it fairly means, but carries with it the related proposition that it must not be contorted in such a way so as to strain the bounds of rational comprehension. . . . *Deming* v. *Nationwide Mutual Ins. Co.*, [279 Conn. 745, 778, 905 A.2d 623 (2006)]. . . .

"We acknowledge that in our prior cases applying the relation back doctrine we perhaps have not provided as much clarity as necessary for the trial court to apply the doctrine consistently. After a careful review of our case law, it is apparent that in order to provide fair notice to the opposing party, the proposed new or changed allegation of negligence must fall within the scope of the original cause of action, which is the *transaction or occurrence* underpinning the plaintiff's legal claim against the defendant. Determination of what the original cause of action is requires a case-by-case inquiry by the trial court. In making such a determination, the trial court must not view the allegations so narrowly that any amendment changing or enhancing the original allegations would be deemed to constitute a different cause of action. But the trial court also must not generalize so far from the specific allegations that the cause of action ceases to pertain to a specific transaction or occurrence between the parties that was identified in the original complaint. While these guidelines are still broad, a bright line rule would not serve the purpose of promoting substantial justice for the parties. . . .

"If new allegations state a set of facts that contradict the original cause of action, which is the transaction or occurrence underpinning the plaintiff's legal claim against the defendant, then it is clear that the new allegations do not fall within the scope of the original cause of action and, therefore, do not relate back to the original pleading. But an absence of a direct contradiction must not end the trial court's inquiry. The trial court must still determine whether the new allegations support and amplify the original cause of action or state a new cause of action entirely. Relevant factors for this inquiry include, but are not limited to, [1] whether the original and the new allegations involve the same actor or actors, [2] allege events that occurred during the same period of time, [3] occurred at the same location, [4] resulted in the same injury, [5] allege substantially similar types of behavior, and [6] require the same types of evidence and experts." (Emphasis in original; footnotes omitted; Internal quotation marks omitted) *Briere* v. *Greater Hartford Orthopedic Group, P.C.*, supra, 325 Conn. 207–11.

In arguing that the new allegations of the amended complaints—including those based on violations of the NFA and GCA—are time barred, the defendant contends that the new contentions state novel causes of action, because a different factual situation is presented. According to the defendant, "[i]n contrast to the Original Complaint's lone marketing cause of action, the Amended Complaint focuses on an entirely different factual situation: the firearm's design, federal regulatory classification, and intended use." See Stanisic Action, Docket Entry No. 1212, p. 6. The court disagrees.

To begin, and construing the plaintiffs' pleadings broadly and realistically, both the original complaints and the amended complaints concern the AR-556 pistol's design *and* marketing. In fact, the original complaints are replete with allegations concerning the design of the AR-556. Thus, the original complaints allege that the AR-556 was "*designed* with features that were chosen to maximize casualties and *engineered* to deliver maximum carnage with extreme efficiency" (Emphasis added); Stanisic Action, Complaint, counts one through five, ¶ 8; the defendant "*designed* the AR-556 such that it would utilize the same ammunition and magazines as the AR-15s[,]" and that, "[a]s a result of [the defendant's] *design* choice, the AR-556 is more deadly than other pistols on the market" (Emphasis added); Id., ¶¶ 11 and 12; and the defendant "*designed*" the AR-556 pistol "to be sold with stabilizing braces that essentially allowed the weapon to be converted to a rifle while still preserving its classification as a pistol for regulatory purposes." (Emphasis added) Id., ¶ 13. As reflected in the court's summary of the pleadings above, it is clear that, while differing in detail and emphasis, both the original and amended complaints involve the defendant's design and marketing of the AR-556 pistol.

Moreover, both the original and amended complaints allege that the defendant knowingly designed and marketed an AR-15-style weapon, in the nature of a rifle, that it passed off to the public as a pistol. According to the plaintiffs' pleadings, the defendant engaged in this conduct in order to circumvent federal regulations applicable to dangerous firearms, and further, in order to promote, inter alia, the assaultive and/or militaristic uses of such weapons, and appeal to customers who are

interested in acquiring such weapons outside of federal regulatory strictures. The amended complaints do not state new causes of action; rather, they amplify the allegations that were asserted in the original complaints.

This permissible expansion extends to the plaintiffs' claims that the defendant violated the NFA and GCA. The defendant is correct that there are no specific references to the NFA and GCA in the original complaints. However, reading the original complaints broadly and realistically, and construing them in a manner most favorable to the plaintiffs, they allege violations of federal laws regulating firearms. For example, the original complaints contend that "[t]he AR-556 pistol variant featured the same rail system as other AR-15 style rifles while having an altered stock and barrel *to evade federal classification as a rifle*" (Emphasis added); Id., ¶ 10; and that the defendant's marketing and sale of the AR-556 with stabilizing arm braces "allowed [the] weapon to function as a stock stabilized AR-15 rifle, *while evading regulations targeted at limiting AR-15-style rifles*." (Emphasis added.) Id., ¶ 15.

The failure of the original complaints to cite specifically to the federal laws and regulations on which the plaintiffs rely is not fatal to the plaintiffs' claims,[20] and it

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[20] Certainly, our rules of civil procedure provide that, to the extent a party relies on a statute in making a claim, the statute should be pleaded. Thus, Practice Book § 10-3, entitled, "Allegations Based on Statutory Grounds; Foreign Law," reads at subsection (a): "When any claim made in a complaint, cross complaint, special defense, or other pleading is grounded on a statute, the statute shall be specifically identified by its number." "Although Practice Book § 10-3 (a) provides that when any claim in a complaint is grounded on a statute, the statute shall be specifically identified by its number, this rule has been construed as directory rather than mandatory. . . . [When] the [opposing party] is sufficiently appraised of the nature of

does not prevent the plaintiffs from supplementing their pleadings to allege specific NFA, GCA, and related regulatory violations, as they appear in the amended complaints. Simply put, the statutes and regulations cited by the plaintiffs in the

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the action . . . the failure to comply with the directive of Practice Book § 10-3 (a) will not bar recovery." (Internal quotation marks omitted.) *Burke* v. *Mesniaeff*, 177 Conn. App. 824, 840, 173 A.3d 393 (2017), aff'd, 334 Conn. 100, 220 A.3d 777 (2019). Accord *Awdziewicz* v. *Meriden*, 317 Conn. 122, 137–38, 115 A.3d 1084 (2015) ("[a]s 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." [Internal quotation marks omitted.]). Given the allegations of the original complaints, the court concludes that the defendant was sufficiently appraised of the nature of the plaintiffs' claims and the federal law on which they were based. See, e.g., *Williams* v. *Beemiller, Inc.*, 100 App. Div. 3d 143, 149, 952 N.Y.S.2d 333 (2012) ("although the complaint does not specify the statutes allegedly violated, it sufficiently alleges facts supporting a finding that defendants knowingly violated federal gun laws.").

Moreover, if the defendant wanted the plaintiffs to identify with precision the federal laws and regulations on which the original complaints were based, they could have filed requests to revise seeking such clarification. While the defendant filed requests to revise, it did not seek any specification of the statutes and regulations allegedly violated. See, e.g., Stanisic Action, Docket Entry No. 101. As this court observed in *DiMauro* v. *The Connecticut Hospice, Inc.*, Superior Court, judicial district of New Haven, Docket No. CV-18-6083356-S (November 20, 2019, *Pierson, J.*), "[t]he appellate cases discussing the directory nature of [Practice Book § 10-3] all appear to be in the context of a free-standing objection to a failure to allege a statute—none appear to be in the context of an omission after a request to revise had specifically asked for citation to statutory authority . . . [W]hile Practice Book § 10-3 presumptively is directory in nature in the first instance, it takes on a more mandatory quality—at least as an issue of pleading, in the early stages of a dispute—when there is a request to revise seeking such specificity. Section 10-3 may be directory as an initial matter for the drafter of a complaint, but if invoked by an adverse party via request to revise, the rule provides an appropriate basis for the court to require compliance.' *Baxt* v. *Smith*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-18-6034862-S (June 1, 2018, *Povodator, J.*); see also *BKM Enterprises, Inc.* v. *Budget Modular Workstations, Inc.*, Superior Court, judicial district of Hartford, Docket No. CV-05-4008900-S (February 21, 2007, *Hale, J.T.R.*) (42 Conn. L. Rptr. 842) ('[A]lthough a proper pleading should set forth a particular statute upon which the plaintiff relies . . . the failure to do so does not affect the validity of the pleading, but may be the proper subject of a request to revise')." (Internal quotation marks omitted.)

amended complaints constitute a permissible amplification of the unspecified federal regulatory provisions asserted in the original complaints.

In the overall circumstances of this case, the court has little difficulty concluding that the new allegations of the amended complaints relate back to the original complaints. Considering the relevant *Briere* factors in order, and to begin, the original and amended complaints involve identical actors. The parties are the same, both sets of pleadings involve the defendant's design and marketing of the AR-556 pistol, and the defendant's violation of federal firearms laws in order to target a discrete consumer market. The events at issue occurred during the same time frame, and nothing in the amended complaints alters the relevant time period at issue in the original complaints. The allegations of both the original and amended complaints involve conduct that allegedly resulted in the same injuries, namely, the deaths of the plaintiffs' decedents. The original and amended complaints also allege similar types of behavior, namely, the design and marketing of a firearm intended to bypass the federal regulation of such weapons—here, short-barreled rifles—for the purpose of promoting, to a specific category of persons, a weapon with assaultive and militaristic uses whose style has become the "weapon of choice" for mass shooters. Given these similarities, the same type of evidence and experts are involved. The claims set forth in the amended complaints are timely.

III

Having determined that the amended complaints are not time barred, the court turns to the defendant's argument that some of the plaintiffs' claims are

nonjusticiable. The defendant challenges the plaintiffs' standing to maintain their CUTPA claims, to the extent they are based on the defendant's purported false representations, on the ground that the plaintiffs were not consumers of the weapon used by Alissa that resulted in their decedents' deaths. By challenging the plaintiffs' standing to maintain portions of the CUTPA counts against the defendant, the defendant raises the justiciability of these claims. "Justiciability requires (1) that there be an actual controversy between or among the parties to the dispute . . . (2) that the interests of the parties be adverse . . . (3) that the matter in controversy be capable of being adjudicated by judicial power . . . and (4) that the determination of the controversy will result in practical relief to the complainant." (Internal quotation marks omitted.) *Presto* v. *Presto*, 196 Conn. App. 22, 28, 228 A.3d 391 (2020), citing *Office of the Governor* v. *Select Committee of Inquiry*, 271 Conn. 540, 568–69, 858 A.2d 709 (2004). Accord *Weiner* v. *Clinton*, 100 Conn. App. 753, 757, 919 A.2d 1038, cert. denied, 282 Conn. 928, 926 A.2d 669 (2007). "A case that is nonjusticiable must be dismissed for lack of subject matter jurisdiction." (Internal quotation marks omitted.) *Chapman Lumber, Inc.* v. *Tager*, 288 Conn. 69, 86, 952 A.2d 1 (2008). Accord *Mayer* v. *Biafore, Florek & O'Neill*, 245 Conn. 88, 91, 713 A.2d 1267 (1998), citing *Kleinman* v. *Marshall*, 192 Conn. 479, 484, 472 A.2d 772 (1984). "[J]usticiability comprises several related doctrines, namely, standing, ripeness, mootness and the political question doctrine, that implicate the court's subject matter jurisdiction and its competency to adjudicate a particular matter." (Emphasis omitted; internal

quotation marks omitted.) *Chapman Lumber, Inc.* v. *Tager*, supra, 288 Conn. 86, citing *Office of the Governor* v. *Select Committee of Inquiry*, supra, 271 Conn. 569.

"It is a basic principle of our law . . . that the plaintiff must have standing in order for a court to have jurisdiction . . . . Standing is the legal right to set judicial machinery in motion." *Travelers Casualty & Surety Co. of America* v. *Netherlands Ins. Co.*, 312 Conn. 714, 727–28, 95 A.3d 1031 (2014). "Standing is not a technical rule intended to keep aggrieved parties out of court; nor is it a test of substantive rights. Rather it is a practical concept designed to ensure that courts and parties are not vexed by suits brought to vindicate nonjusticiable interests and that judicial decisions which may affect the rights of others are forged in hot controversy, with each view fairly and vigorously represented." *Carrubba* v. *Moskowitz*, 274 Conn. 533, 550–51, 877 A.2d 773 (2005). "One cannot rightfully invoke the jurisdiction of the court unless he [or she] has, in an individual or representative capacity, some real interest in the cause of action, or a legal or equitable right, title or interest in the subject matter of the controversy. . . . When standing is put in issue, the question is whether the person whose standing is challenged is a proper party to request an adjudication of the issue . . . ." *Travelers Casualty & Surety Co. of America* v. *Netherlands Ins. Co.*, supra, 312 Conn. 728.

The court concludes that the plaintiffs are proper parties to request an adjudication of their CUTPA claims against the defendant, including their claims of false representation, and that these claims are justiciable. The fact that the plaintiffs were not consumers of the AR-556 pistol used in the mass shooting does not deprive

them of standing. As stated by our Supreme Court, "[o]n its face, [CUTPA] 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* v. *Bushmaster Firearms International, LLC*, 331 Conn. 53, 89, 202 A.3d 262, cert. denied, 589 U.S. 1059, 140 S. Ct. 513, 205 L. Ed. 2d 317 (2019). In the context of wrongful advertising and marketing, "[b]ecause the principal evils associated with unscrupulous and illegal advertising are not ones that necessarily arise from or infect the relationship between an advertiser and its customers, competitors, or business associates, we hold that a party directly injured by conduct resulting from such advertising can bring an action pursuant to CUTPA *even in the absence of a business relationship with the defendant*." (Emphasis added.) Id., 88. See also *Kesl, LLC* v. *Gibbs Oil Company, LLC*, Superior Court, judicial district of Hartford, Docket No. CV-17-6079718-S (December 1, 2020, *Taylor, J.*) (70 Conn. L. Rptr. 489) ("a direct business relationship is not required for a claim of injury under CUTPA"). This is because "[t]he gravamen of a wrongful advertising claim . . . is that an advertisement models or encourages illegal or unsafe behavior. . . . *the immediate victims are just as likely to be third parties who are not customers*, ..." (Emphasis added.) *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 99.

In these cases, the plaintiffs allege that they are immediate victims of the defendant's unlawful and unscrupulous advertising practices, including the defendant's alleged deceptive marketing of AR-556 pistols "as lawful for civilian customers to purchase, despite its failure to register and transfer the guns in

compliance with the NFA"; and further, that the defendant "unfairly marketed its AR-556 [p]istols as designed like rifles"; "deceptively marketed [AR-556s] as 'pistols' for purposes of federal law, rather than as short-barreled rifles[,]" and "unfairly marketed its AR-556 product lines by promoting, directly and indirectly, their assaultive and/or militaristic uses." See Stanisic Action, counts one, six, eleven, sixteen, and twenty-one, ¶ 113, subparagraphs b. through e. By the foregoing, the plaintiffs claim that the defendant engaged in *marketing* efforts—that is, advertising and promotional practices—that model or encourage illegal or unsafe behavior. *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 99. As stated by our Supreme Court, "[i]f the defendants' *marketing* . . . did in fact inspire or intensify the massacre, then there are no more direct victims than these plaintiffs; nor is there any customer of the defendant['s] with a better claim to standing." (Emphasis added.) Id., 99–100. See also Id., 131 ("In the present case, the plaintiffs allege that the defendants illegally marketed the XM15-E2S by promoting its criminal use for offensive criminal assaults, and that this wrongful advertising was a direct cause of the Sandy Hook massacre.").

The defendant concedes that the plaintiffs have CUTPA standing to maintain the allegation at paragraph 113, subparagraph e., of the amended complaints, which reads: "Ruger's production, direct and indirect marketing, and sale of its AR-556 [p]istols was unfair and deceptive [in that] . . . . e. Ruger unfairly marketed its AR-556 product lines by promoting, directly and indirectly, their assaultive and/or militaristic uses." See Stanisic Action, Docket Entry No. 1212, p 16. However, the

defendant argues that the plaintiffs "do not have standing to pursue their other CUTPA allegations" on the ground that *Soto* "pertained only to advertisements promoting illegal conduct and did not apply to advertisements containing false or misleading information[,]" and the other CUTPA claims are limited to generic false representations, not false representations that promote illegal behaviors. Id., p. 18. The defendant's argument is rejected because it misconstrues the plaintiffs' claims and attempts to paint too fine a distinction between the facts of *Soto* and those asserted here.

To begin, and as suggested above, the allegations of the plaintiffs' CUTPA claims are based on the defendant's wrongful *marketing* activities, not false representations unrelated to the advertising and promotion of the AR-556 pistol. See, e.g., Stanisic Action, Amended Complaint, count one, ¶ 113, subparagraph b. (the defendant "deceptively marketed its AR-556 [p]istols"); subparagraph c. (the defendant "unfairly marketed its AR-556 [p]istols"); and subparagraph d. (the defendant "deceptively marketed [the AR-556] as 'pistols'").

Furthermore, reading these allegations generously and in a manner most favorably to the plaintiffs, the plaintiffs claim that the defendant's marketing activities unethically and unscrupulously promoted illegal conduct. The plaintiffs allege that the defendant marketed the AR-556 pistol to a category of individuals who are interested in purchasing a weapon that "combine[s] the devastating firepower with the concealability and maneuverability of smaller guns"; Stanisic Action, Amended Complaint, count one, ¶ 39; which category of individuals want to acquire

such weapons without having to comply with the federal requirements applicable to these purchases; see Id., ¶¶ 65, 109; and which style of firearm has become the "weapon of choice" for the deadliest mass shooters. Id., ¶ 21. Taken together, these allegations involve claimed advertising and marketing by the defendant that was intended to promote or encourage violent, criminal behavior—not run-of-the-mill false representations, as argued by the defendant. See *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 99 ("A claim that a defendant's advertisements unethically promote illegal conduct is fundamentally different from one alleging false or misleading advertising."). As stated by our Supreme Court in *Soto*, "even the most ardent sponsors of the PLCAA would not have wanted to bar a consumer protection lawsuit seeking to hold the supplier accountable for the injuries wrought by such unscrupulous marketing practices. . . . Once we accept the premise that Congress did not intend to immunize firearms suppliers who engage in truly unethical and irresponsible marketing practices [by] promoting criminal conduct, and given that statutes such as CUTPA are the only means available to address those types of wrongs, it falls to a jury to decide whether the promotional schemes alleged in the present case rise to the level of illegal trade practices and whether fault for the tragedy can be laid at their feet." *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 157. The plaintiffs have standing to maintain their CUTPA-based claims.

IV

Having resolved the jurisdictional challenges to the amended complaints, the court turns to a consideration of the immunity conferred by the PLCAA on firearms manufacturers, and its effect on the plaintiffs' claims.

A

"In 2005, the United States Congress passed the PLCAA, and it was signed into law." *Smith & Wesson Corp.* v. *City of Gary*, 875 N.E.2d 422, 426 (Ind. App. 2007). See also *Chiapperini* v. *Gander Mountain Company, Inc.*, 48 Misc. 3d 865, 872, 13 N.Y.S.3d 777 (2014) ("The PLCAA [became] law on October 26, 2005."). "The [PLCAA], . . . bars certain lawsuits against manufacturers and sellers of firearms." *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, 605 U.S. 280, 285, 145 S. Ct. 1556, 221 L. Ed. 2d 910 (2025). See also *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 116–17 ("[The] PLCAA generally affords manufacturers and sellers of firearms immunity from civil liability or unlawful use of their products by third parties." [footnote omitted]); *Salter* v. *Meta Platforms, Inc.*, 240 App. Div. 3d 1378, 1381, 240 N.Y.S.3d 1378 (2025) ("The PLCAA immunizes, to some degree, manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearms products or ammunition products by others when the product functioned as designed and intended" [citation omitted; internal quotation marks omitted]).

"Congress enacted the statute in response to a spate of litigation trying to hold gun companies liable in tort for harms caused by the misuse of firearms by third parties, including criminals." (Citation omitted; internal quotation marks omitted.) *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, supra, 605 U.S. 285. See also *Minnesota* v. *Fleet Farm LLC*, 679 F. Supp. 3d 825, 840 (D. Minn. 2023), ("Congress enacted the PLCAA after finding that lawsuits were being commenced against businesses for selling firearms that operate as designed and intended. The plaintiffs in those lawsuits usually sought monetary damages and other relief for harm caused by the misuse of firearms by third parties, usually criminals."); *Chiapperini* v. *Gander Mountain Company, Inc.*, supra, 48 Misc. 3d 872–73 ("The PLCAA went into law on October 26, 2005. . . . Its purpose was to shield gun sellers from civil liability for harm solely caused by the criminal and unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended." [Citation omitted; internal quotation marks omitted.]); Annot., 17 A.L.R. Fed. 2d 167 § 2 ("Against a backdrop of civil actions by municipalities against gun manufacturers claiming damages for providing emergency services to gunshot victims, Congress passed the [PLCAA,] which dismissed pending claims against firearms manufacturers and prohibited future civil liability actions in federal or state court" [citations omitted, footnotes omitted]).

The PLCAA was adopted based upon certain legislative findings. For example, and as reflected in § 7901 of the PLCAA, Congress concluded that "[t]he possibility of imposing liability on an entire industry for harm *that is solely caused by others*" would

be improper. (Emphasis added.) Section 7901 (a) (6). In addition, Congress determined that "[t]he liability actions commenced or contemplated by the [f]ederal [g]overnment, [s]tates, municipalities, and private interest groups and others are based on theories *without foundation* in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law." (Emphasis added.) Section 7901 (a) (7). Given these and certain other predicate conclusions, Congress's stated purpose in passing the PLCAA was, inter alia, "[t]o prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms of ammunition products, and their trade associations, for the harm *solely* caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended." (Emphasis added.) Section 7901 (b) (1).

"To curb such suits, [the] PLCAA provides that a 'qualified civil liability action,' as defined in the [a]ct, 'may not be brought in any [f]ederal or [s]tate court.'" *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, supra, 605 U.S. 285–86, citing § 7902 (a). Under the PLCAA, "[a] qualified civil liability action . . . shall be immediately dismissed by the court in which the action was brought or is currently pending." Section 7902 (b).

The PLCAA defines a "qualified civil liability action" as "a civil action or proceeding or an administrative proceeding brought by any person against a

manufacturer or seller of a qualified product,[21] or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief, resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, . . . " Section 7903 (5) (A).

While unquestionably broad, the immunity conferred by the PLCAA on firearms manufacturers and sellers is not absolute. See *Wiley, Co-Trustees for Wiley* v. *Fleet Farm, LLC*, United States District Court, Docket No. 24-CV-4135 (LMP/JFD) (D. Minn. September 9, 2025) ("Although [the] PLCAA's preemptive force is broad, it is not absolute."); *District of Columbia* v. *Beretta U.S.A. Corp.*, 940 A.2d 163, 174–75 (D.C. App. 2008), cert. denied, 556 U.S. 1104, 129 S. Ct. 1579, 173 L. Ed. 2d 675 (2009) ("Congress did not, . . . totally abrogate causes of action holding manufacturers or sellers liable for their actions causally linked to discharge of their firearms." [citation omitted; internal quotation marks omitted.]). Thus, the PLCAA provides enumerated exceptions to immunity by exempting certain claims from being defined as "qualified civil liability action[s]." More specifically, "Congress carved out six exceptions to this immunity, pursuant to which firearms sellers may be held liable for third-party crimes committed with their products. See 15 U.S.C. § 7903 (5) (A) . . . ." *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 117. By far the most

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[21] Under the PLCAA, "the term 'qualified product' means a firearm (as defined in subparagraph [A] or [B] of Section 921 [a] [3] of Title 18), including any antique firearm (as defined in section 921 [a] [16] of such title), or ammunition (as defined in section 921 [a] [17] [A] of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce." Section 7903 (4).

commonly considered—and the one at issue in the motions now before the court—is the third exception, which has come to be known as the "'predicate exception,' because it applies only where the manufacturer or seller has committed an underlying (or predicate) statutory violation." (Internal quotation marks omitted.) *National Shooting Sports Foundation, Inc*. v. *James*, 144 F.4th 98, 103 (2d Cir. 2025). Accord *Minnesota* v. *Fleet Farm LLC*, supra, 679 F. Supp. 3d 840 ("Section 7903 [5] [A] [iii] is referred to as the 'predicate exception' because 'its operation requires an underlying or predicate statutory violation.'); *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 68 n.12 ("This exception has come to be known as the predicate exception because a plaintiff must allege a knowing violation of a predicate statute."); *Smith & Wesson Corp.* v. *City of Gary*, supra, 875 N.E.2d 429–30 ("This exception has been referred to as the 'predicate exception' because its operation requires an underlying or predicate statutory violation."). See also *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, supra, 605 U.S. 286 ("[The] PLCAA's general bar on these suits has an exception, usually called the predicate exception, relevant here.").

The predicate exception provides, in part, that a "'qualified civil liability action' . . . *shall not include*— . . . (iii) *an action* in which a manufacturer or seller of a qualified product *knowingly violated a [s]tate or [f]ederal 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.) Section 7903 (5) (A) (iii). "This exception has come to be known as the 'predicate exception,' because a plaintiff not only must present a cognizable claim, he or she must also allege a knowing violation

of a 'predicate statute.' . . . That is, a plaintiff must allege a knowing violation of a [s]tate or [f]ederal statute applicable to the sale or marketing of the product." (Citations omitted; internal quotation marks omitted.) *Corporan* v. *Wal-Mart Stores East, LP*, United States District Court, Docket No. 16-2305 (JWL) (D. Kan. July 18, 2016). As explained recently by the United States Supreme Court, "[i]f a plaintiff can show that [the predicate exception] is satisfied—that, say, a manufacturer committed a gun-sale violation proximately causing the harm at issue—then a suit can proceed, even though it arises from a third party's later misuse of a gun. Or otherwise said, *the predicate violation opens a path to making a gun manufacturer civilly liable for the way a third party has used the weapon the [manufacturer] made*." (Emphasis added.) *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, supra, 605 U.S. 286.

In order for the predicate exception to apply, a plaintiff must allege the knowing violation of a federal or state statute "*applicable* to the sale or marketing of the product, . . ." (Emphasis added.) Section 7903 (5) (A) (iii). Courts are divided on how the word "applicable" should be construed, and, in fact, the interpretation of this word is often outcome determinative in judicial considerations of the predicate exception. See, e.g., *Smith & Wesson Corp.* v. *City of Gary*, supra, 875 N.E.2d 430 ("*[T]his case turns on the interpretation of the word 'applicable' in the predicate exception*." [emphasis added]). "Several [courts] have expressed the view that . . . the [PLCAA]'s exception for actions based on violation of a statute applicable to the sale or marketing of firearms . . . must be narrowly construed to encompass only state

statutes specifically regulating the sale or marketing of firearms. . . , or, even more narrowly, those statutes regulating the manner in which firearms are sold or marketed . . . , and that the [PLCAA] preempts local statutes applicable to the sale or marketing of firearms that conflict with the [PLCAA]'s purpose. There is authority disagreeing with this interpretation of the [PLCAA]'s predicate exception and supports the view that it should be construed broadly to include laws specifically regulating the sale or marketing of firearms as well as those applicable to such activities." Annot., 17 A.L.R. Fed. 2d. 167 § 2.

The Supreme Court of Connecticut has interpreted the word "applicable"—as it appears in § 7903 (5) (A) (iii)—in accordance with its "ordinary, dictionary meaning . . . [W]e find that the principal definition of 'applicable' is simply '[c]apable of being applied . . . ."[22] (Citation omitted.) *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 119. So defined, our Supreme Court has concluded that the term, "applicable," "is susceptible to a *broad reading*, . . ." (Emphasis added.) Id., 120.

In *Soto*—a seminal and influential case interpreting the predicate exception under the PLCAA—our Supreme Court considered "'whether CUTPA qualifies

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[22] The Second Circuit rejects a dictionary-based definition of the word "applicable," as it appears in § 7903 (5) (A) (iii), as well as the conclusion that the definition, "'capable of being applied'[,] . . . accurately reflects the intent of Congress." *City of New York* v. *Berretta U.S.A. Corp*., 524 F.3d 384, 400 (2d Cir. 2008), cert. denied, 556 U.S. 1104, 129 S. Ct. 1579, 173 L. Ed. 2d 675 (2009). Rather, the Second Circuit views "the contours of the universe of predicate statutes—i.e., those statutes that are 'applicable' to the sale or marketing of firearms—[as being] undefined and we can only conclude that the term 'applicable' requires a contextual definition." Id., 401.

as . . . a predicate statute, that is, a statute *applicable* to the sale or marketing of [firearms] . . . .' (Emphasis added.) 15 U.S.C. § 7903 (5) (A) (iii) (2012)." Id., 117. In holding that CUTPA qualified as a predicate statute under the PLCAA in the circumstances of that case, the *Soto* court concluded—based upon the ordinary, dictionary definition of the word, "applicable"—that as CUTPA is "capable of being applied to the sale and marketing of firearms[,]" it satisfies the predicate exception of § 7903 (5) (A) (iii). Id., 119. Accord *Brady* v. *Walmart Inc.*, United States District Court, Docket No. 8:21-CV-1412 (AAQ) (D. Md. July 28, 2022) ("'applicable' means 'capable of being applied: having relevance' or 'fit, suitable, or right to be applied: appropriate.'"). See also *Salter* v. *Meta Platforms, Inc.*, supra, 240 App. Div. 3d 1384 (citing *Soto* and holding that New York's General Business Law §§ 349 and 350 "involve the general marketing and sale of products in New York and, as a result, bring [the] plaintiff['s] actions within the ambit of the predicate exception because those provisions target conduct expressly aimed at conducting business within New York . . . .").

However, and as applied in *Soto*, the court's holding that CUTPA satisfied the predicate exception was not based solely on a dictionary definition of the word, "applicable." In its lengthy analysis of CUTPA and the predicate exception, our Supreme Court also observed that "[i]f Congress . . . intended to limit the scope of the predicate exception to violations of statutes that are *directly*, *expressly*, or *exclusively* applicable to firearms, . . . it easily could have used such language, as it has on other occasions." (Emphasis in original.) *Soto* v. *Bushmaster Firearms International, LLC*,

supra, 331 Conn. 120. This conclusion is consistent with the Second Circuit's view that there is "nothing in the [PLCAA] that requires any express language regarding firearms to be included in a statute in order for that statute to fall within the predicate exception. We decline to foreclose the possibility that, under certain circumstances, state courts may apply a statute of general applicability to the type of conduct . . . [complained of], in which case such a statute might qualify as a predicate statute." *City of New York* v. *Berretta U.S.A. Corp*., 524 F.3d 384, 400 (2d Cir. 2008), cert. denied, 556 U.S. 1104, 129 S. Ct. 1579, 173 L. Ed. 2d 675 (2009).[23] In fact, in *Beretta*, the Second Circuit held that the predicate exception encompasses "statutes . . . that courts have applied to the sale and marketing of firearms and . . . statutes that do not expressly regulate firearms but that clearly can be said to implicate the purchase and sale of firearms." Id., 404.

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[23] To the extent Connecticut's Supreme or Appellate Courts have not spoken inconsistently with the Second Circuit on an issue of federal statutory interpretation, and "'[w]hen addressing questions of federal law, we give special consideration to the decisions of the Second Circuit.' *Martinez* v. *Empire Fire & Marine Ins. Co*., 322 Conn. 47, 62, 139 A.3d 611 (2016). Accord *Carrano* v. *Boehringer Ingelheim Corp*., Superior Court, judicial district of Waterbury, Complex Litigation Docket, Docket No. X10-CV-23-6075772-S (August 21, 2024, *Pierson, J*.) ('the decisions of the Second Circuit—particularly as they relate to the interpretation of federal and constitutional law—are highly persuasive in this state'). See also *Mohammadi* v. *Tong*, Superior Court, judicial district of Hartford, Docket No. CV-23-6168859-S (April 18, 2024, *Vatti, J*.) ('In general, state courts look to the federal courts for guidance in resolving issues of federal law. . . . Moreover, it is well settled that the decisions of the Second Circuit Court of Appeals carry particularly persuasive weight in the interpretation of federal statutes by Connecticut state courts.' [Brackets omitted; citations omitted; internal quotation marks omitted.])." *Zane* v. *Corradi*, Superior Court, judicial district of Waterbury, Complex Litigation Docket, Docket No. CV-24-6082842-S (July 18, 2025, *Pierson, J*.).

In concluding that CUTPA qualified as a predicate statute as applied to the facts of *Soto*, our Supreme Court also determined, inter alia, that "CUTPA . . . has been applied to the sale of firearms"; *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 126; "Congress chose not to abrogate the well established duty of firearms sellers to market their wares legally and responsibly"; Id., 130; "Congress sought to preclude only novel civil actions"; Id., 131; "there is no indication in the statutory text or statements of findings and purposes that Congress intended to restrict the power of the states to regulate wrongful advertising, particularly advertising that encourages consumers to engage in egregious criminal conduct"; Id., 138; "our review [of the legislative history of the PLCAA] persuades us that Congress did not intend to limit the scope of the predicate exception to violations of firearms specific laws or to confer immunity from all claims alleging that firearms sellers violated unfair trade practice laws"; Id., 146; and the legislative debates on the PLCAA suggest that "the only actions that would be barred by the PLCAA would be ones in which a defendant bore absolutely no responsibility or blame for a plaintiff's injuries." Id., 148.

The defendant concedes, as it must before this tribunal, the controlling authority of *Soto*. However, the defendant argues that *Soto* must be construed narrowly in accordance with its particular facts, and that, in doing so, the court must grant its motions to strike. The defendant's attempt to distinguish *Soto* from these matters is unavailing.

To begin, and as with the cases now before the court, *Soto* involved a mass shooting. "On December 14, 2012, twenty year old Adam Lanza forced his way into Sandy Hook Elementary School in Newtown[, Connecticut,] and, during the course of 264 seconds, fatally shot twenty first grade children and six staff members, and wounded two staff members. Lanza carried out this massacre using a Bushmaster XM15-E2S semiautomatic rifle that was allegedly manufactured, distributed, and ultimately sold to Lanza's mother by the various defendants in this case." *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 64–65. Moreover, and as in *Soto*, the plaintiffs' claim that the defendant's marketing practices with respect to the AR-556 pistol modeled or encouraged illegal or unsafe behavior by third parties, namely, the mass shooting committed by Alissa. See Id., 148 ("In the present action, . . . the private victims of one specific incident of gun violence seek compensation from the producers and distributors of a single firearm on the basis of alleged misconduct in the specific marketing of the firearm."). Although in this case, the plaintiffs allege specific violations of CUTPA that go beyond the defendant's purported promotion of the AR-556 pistol for its assaultive and/or militaristic uses; Id., 74 (noting allegation that "the defendants' unethically promoted their assault style weapons for offensive, military style missions"); the gravamen of the plaintiffs' CUTPA claims is that the defendant's unscrupulous marketing modeled or encouraged illegal or unsafe behavior. This is sufficient under the holding of *Soto*. See, e.g., Id., 99 ("The gravamen of a wrongful advertising claim, . . . is that an advertisement models or encourages illegal or unsafe behavior."). Given the

similarities between the facts of *Soto* and the present case, the defendant's attempt to limit *Soto*'s holding so restrictively as to extinguish its applicability in any case not identical to *Soto*'s underlying facts is, in essence, to write *Soto*'s broader holdings out of our law. This, the court will not do.

The defendant's argument that *Soto* should be applied narrowly to defeat the plaintiffs' claims also fails on an examination of the cases relied upon by the defendant for the proposition that *Soto* "was limited to a narrow set of facts." See Docket Entry No. 1212, p. 17. The cases cited by the defendant for this proposition; Id., pp. 17 and 18; are clearly distinguishable from the Getz and Stanisic Actions in that *none* of them involved claims for wrongful death arising from a firearms manufacturer's unscrupulous marketing of a weapon, let alone one designed to deliver devastating firepower that was intended to appeal to persons seeking to obtain such weapons without complying with federal firearms regulations. See *Glover* v. *Bausch & Lomb, Inc.*, 343 Conn. 513, 518, 560–62, 275 A.2d 168 (2022) (discussing and distinguishing *Soto* in case involving personal injuries allegedly sustained as a result of "defective artificial lenses manufactured and marketed by the defendants," and noting that *Soto* involved case where plaintiff "seeks a remedy for . . . death . . . that was caused by the unscrupulous advertising of a product *that was not defective*." [Emphasis in original.]); *Lafferty* v. *Jones,* 229 Conn. App. 487, 547, 327 A.3d 941 (2024), cert. denied, 351 Conn. 923, 333 A.3d 105, cert. denied, ___ S. Ct. ___ (2025 WL 2906537 October 14, 2025) (distinguishing *Soto* by noting that in *Lafferty*, "the plaintiffs did not allege direct injury from the defendants' advertising

or sale of the defendants' products, . . . Rather, they alleged injuries from the defendants' *false speech* about the Sandy Hook massacre—speech that itself was silent with regard to the defendants' products." [Emphasis in original.]); *Johnson* v. *Farmers Property & Casualty Insurance Company*, Superior Court, judicial district of New Haven, Docket No. CV-22-6126126-S (December 10, 2024, *Goodrow, J.*) (observing, in context of motor vehicle accident claim, that *Soto* "is limited to cases involving unfair trade practices in advertising"); *Grand Prix Motors, Inc.* v. *Greene*, Superior Court, judicial district of Danbury, Docket No. CV-21-6038857-S (September 1, 2021, *D'Andrea, J.*) (in considering and distinguishing *Soto*, noting that "[i]n the present case, the defendant is not an advertiser, rather an insurer providing liability coverage to a third party."); *Forlastro* v. *Anderson*, Superior Court, judicial district of Litchfield, Docket No. CV-20-6024875-S (July 28, 2020, *Shaban, J.*) (holding that emotional distress damages were not recoverable under CUTPA in the circumstances of that case). None of these decisions support the view that *Soto* should be applied so strictly as to defeat the plaintiffs' claims.

In addition to contending that *Soto* should not be applied to the plaintiffs' CUTPA claims because those claims are factually distinguishable, the defendant also argues that the NFA and GCA are *not* predicate statutes because they were not addressed in *Soto*, and neither one "creates a private right of action." Stanisic Action, Docket Entry No. 1212, p. 20. Furthermore, the defendant contends that CUTPA cannot serve as a predicate statute for asserting violations of the NFA and GCA "by

falsely representing the firearm as a handgun." Id. The defendant's arguments are rejected.

First, a statute does not need to create a private right of action, or a particular remedy under a private right of action, in order to qualify as a predicate statute under the PLCAA. All that § 7903 (5) (A) (iii) demands is that the manufacturer or seller of a qualified product "knowingly violated a [s]tate or [f]ederal statute applicable to the sale or marketing of the product"—language that is devoid of any requirement that the subject state or federal statute also gives rise to a private right of action. As observed by one federal court, "[n]either the language of the PLCAA nor [*City of New York* v. *Berretta U.S.A. Corp*., supra, 524 F.3d 384] require the violated statute to also provide the cause of action. . . . Here, the [plaintiff's] claim . . . is based on violations of at least twenty-five state and federal laws that 'expressly regulate firearms.' . . . It follows that the claims . . . qualify for the predicate exception." *New York* v. *Arm or Ally, LLC*, 718 F. Supp. 3d 310, 330 (S.D.N.Y. 2024). Accord *Minnesota* v. *Fleet Farm LLC*, supra, 679 F. Supp. 3d 847 (rejecting defendant's argument "that the negligence per se claim fails because none of the statutes relied upon by the [plaintiff] create a private right of action."). See also *Brady* v. *Walmart Inc*., supra, United States District Court, Docket No. 8:21-CV-1412 (AAQ) ("The text of the predicate exception requires that the federal or state statute cited by the [p]laintiff be 'applicable' to the sale of a firearm; *it does not require that the statute explicitly penalize the sale of a firearm*." [emphasis added]).

Second, and although the GCA and NFA do not provide rights of action for the violation of their provisions, under the facts alleged by the plaintiffs, they are clearly "applicable to the sale or marketing of" the defendant's AR-556 pistol. As explained by the United States Supreme Court, "the NFA's object [is] to regulate certain weapons likely to be used for criminal purposes, just as the regulation of short-barreled rifles, for example, addresses a concealable weapon likely to be so used." *United States* v. *Thompson/Center Arms Company*, 504 U.S. 505, 517, 112 S. Ct. 2102, 119 L. Ed. 2d 308 (1992). See also *United States* v. *Bradford*, 766 F. Supp. 2d 903, 910 (E.D. Wisc. 2011) ("Congress regulates explosives and short-barreled shotguns similarly under the National Firearms Act . . . ."). Likewise, the GCA is intended to limit access to firearms by certain potentially irresponsible individuals. "The history of the [GCA] reflects a . . . concern with keeping firearms out of the hands of categories of potentially irresponsible persons, including convicted felons. Its broadly stated principal purpose was 'to make it possible to keep firearms out of the hands of those not legally entitled to possess them because of age, criminal background, or incompetency.'" *Barrett* v. *United States*, 423 U.S. 212, 220, 96 S. Ct. 498, 46 L. Ed. 2d 450 (1976). See also *Armalite, Inc.* v. *Lambert*, 512 F. Supp. 2d 1070, 1073 (N.D. Ohio 2007), aff'd, 544 F.3d 644 (6th Cir. 2008) ("The purpose of the GCA is to curb crime by keeping firearms out of the hands of those not legally entitled to possess them because of age, criminal background, or incompetency." [internal quotation marks omitted]).

The GCA and NFA fulfill these purposes, in part, by regulating the *transfer* of firearms. For example, the GCA provides that "[i]t shall be unlawful for any . . . licensed manufacturer . . . to *sell or deliver*— . . . to any person any . . . short-barreled rifle, . . . except as specifically authorized by the Attorney General consistent with public safety and necessity; . . . ." (Emphasis added.) 18 U.S.C. § 922 (b) (4). The NFA prohibits a manufacturer from transferring a firearm unless the manufacturer complies with the express requirements of 26 U.S.C. § 5812 and 26 C.F.R. § 479.83, including the provision of all information called for on ATF Form 4. Thus, both the GCA and NFA expressly regulate commerce in firearms and implicate the purchase and sale of firearms. As a result, both the GCA and NFA qualify as predicate statutes, independently of CUTPA. "[T]he predicate exception encompasses not only laws that expressly regulate commerce in firearms but also those that clearly can be said to implicate the purchase and sale of firearms, ..." (Internal quotation marks omitted.) *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 125, citing *City of New York* v. *Beretta U.S.A. Corp.*, supra, 524 F.3d 404.

This is not a novel conclusion. Courts across the nation have held that the GCA is a predicate statute that qualifies for the exception to immunity carved out by Congress in § 7903 (5) (A) (iii). See, e.g., *Cluney* v. *Brownells*, 777 F. Supp. 3d 1, 10–12 (D. Me. 2025) ("[The p]laintiff alleges that [the defendant] violated the GCA, ... [The plaintiff] has plausibly alleged a knowing violation of a federal statute applicable to the sale of a qualified product" for purposes of the predicate exception); *King* v. *Klocek*, 187 App. Div. 3d 1614, 1615, 133 N.Y.S.3d 356 (2020)

(holding that alleged violation of 18 U.S.C. § 922 (b) (1), part of the GCA, "if true, establish[es] that the defendant committed a predicate offense under 15 U.S.C. § 7903 (5) (A) . . . and, as a result, establish[es] that this action is not a qualified civil liability action and not subject to immediate dismissal."); *Corporan* v. *Wal-Mart Stores East, LP*, supra, United States District Court, Docket No. 16-2305 (JWL) ("Here, . . . [the] plaintiffs have alleged violations of the federal Gun Control Act. . . . [T]he court concludes that [the] plaintiff's complaint, . . . sufficiently alleges conduct that falls within the predicate exception to the PLCAA."). See also *City of New York* v. *A-1 Jewelry & Pawn, Inc.*, 252 F.R.D. 130, 132 (E.D.N.Y. 2008) ("[T]here are alleged in the instant action substantial violations of *specific federal laws* applicable to the sale and marketing of firearms which allegedly proximately cause harm to the [plaintiff]. . . . The [d]efendant's motion for summary judgment on the ground that the action is barred by the PLCAA is denied."). As the regulatory scheme established by the NFA also implicates the sale of firearms, a similar conclusion is warranted with respect to the NFA. The GCA and NFA are predicate statutes that qualify for the exception to PLCAA immunity codified at Section 7903 (5) (A) (iii).

B

The defendant also argues that the plaintiffs' common law claims in negligence, negligence per se, public nuisance, and recklessness are barred by PLCAA immunity, to the extent they are not based upon the knowing violation of a predicate statute. It does so based on two grounds: (1) that the PLCAA lacks an exception for common law claims, and allowing them to proceed would render illusory the

immunity granted by the PLCAA; and (2) the lower scienter requirements of these common law causes of action cannot be reconciled with the predicate exception's requirement that the defendant "knowingly" violated a state or federal statute. The court disagrees.

The court begins by referring to Congress' expressly articulated concern, in adopting the PLCAA, that "liability actions commenced or contemplated" by plaintiffs against manufacturers (and others) "are based on theories *without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law*." (Emphasis added.) Section 7901 (a) (7). The common law tort claims asserted by the plaintiffs here—in negligence, negligence per se, public nuisance, and recklessness—do not constitute unripe or innovative "theories without foundation in hundreds of years of the common law and jurisprudence of the United States . . . ." On the contrary, these theories of liability are well established in law,[24] and allowing the plaintiffs' common law claims to proceed does not undermine the Congressional goal of barring novel legal actions against gun manufacturers. See, e.g., *Smith & Wesson Corp.* v. *City of Gary*, supra, 875 N.E.2d 434 (Court of Appeals of Indiana holding that "the City's [public nuisance]

[24] Just for an example, "[t]he emergence of negligence as an independent tort has been attributed by most legal historians to the last quarter of the eighteenth and the first quarter of the nineteenth century. The concept of negligence, however, can be traced back as far back as the fourteenth century." (Footnotes omitted.) J. Oldham, 2 The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century, p. 1107 (1992).

claim is not an attempt to expand the common law and . . . is not an attempt to circumvent the legislative branch of government.").

The court also returns to *Soto*. In that case, our Supreme Court held that, as applied, CUTPA qualified as a statute subject to the predicate exception of the PLCAA. In doing so, it did not address the issue of whether common law claims could be maintained pursuant to the predicate exception, observing that "the plaintiffs' theory of liability is not novel; *nor does it sound in tort*." (Emphasis added.) *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn. 150. However, while remarking that the plaintiffs were not asserting common law tort claims, the *Soto* court also observed that "there also is *ample precedent* for recognizing wrongful marketing claims of this sort *predicated on tort theories of liability*." (Emphasis added.) Id., n.79. Moreover, in its review of the PLCAA and the predicate exception, the *Soto* court analyzed the legislative history of the statute, including one United States Senator's statement that "this legislation will not bar the courthouse doors to victims who have been harmed *by the negligence or misdeeds of anyone in the gun industry*. *Well recognized causes of action are protected by the bill*. Plaintiffs can still argue their cases for violations of law . . . ." (Internal quotation marks omitted.) Id., 156. See also *Wiley*, *Co-Trustees for Wiley* v. *Fleet Farm, LLC*, supra, United States District Court, Docket No. 24-CV-4135 (LMP/JFD) ("During the debates on [the] PLCAA, multiple supporters of the law suggested that simple negligence claims could proceed under the predicate exception."). While it did not address specifically the viability of common law causes of action under the predicate exception, the *Soto* court

suggested that such causes of action could be maintained—provided, of course, that the other requirements of the predicate exception are met.

In fact, courts across the country have allowed common law claims to proceed, so long as an action is based, at least in part, on a purported knowing violation of a predicate statute that was a proximate cause of the claimed harm. Thus, the First Circuit concluded "that the predicate exception encompasses common law claims in addition to statutory claims, as long as there is a predicate statutory violation that proximately causes the harm. . . . If Congress had wanted to limit the predicate exception to claims for violating a predicate statute, it could have simply phrased this exception the same as the others. . . . So proof of a statutory violation is a condition to prevailing on, for example, a cause of action for negligence. *But that does not mean that a lawsuit for negligence cannot be 'an action in which . . . a seller . . . knowingly violated' a requisite statute*." (Citations omitted.) *Estados Unidos Mexicanos* v. *Smith & Wesson Brands, Inc.*, 91 F.4th 511, 527 (1st Cir. 2024), rev'd on other grounds, *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, supra, 605 U.S. 280.[25] As observed by another federal court, "[the defendant] urges the [c]ourt to find

[25] In *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, 605 U.S. 280, 145 S. Ct. 1556, 221 L. Ed. 2d 910 (2025), the United States Supreme Court reversed the First Circuit's decision in *Estados Unidos Mexicanos* v. *Smith & Wesson Brands, Inc.*, 91 F.4th 511, 527 (2d Cir. 2024), and remanded the matter for further proceedings. *Smith & Wesson Brands, Inc.* involved the government of Mexico's claims against "seven American gun manufacturers, alleging that the companies *aided and abetted* unlawful gun sales that routed firearms to Mexican drug cartels." (Emphasis added.) *Smith & Wesson Brands, Inc.* v. *Estados Unidos Mexicanos*, supra, 605 U.S. 280. In reversing the First Circuit, the Supreme Court observed that "Mexico relies exclusively on an aiding-and-abetting theory," and determined that the First Circuit's conclusion that Mexico had plausibly alleged an aiding-and-abetting claim was error,

that the PLCAA preempts common law negligence claims. . . . But the PLCAA does not preempt all claims based on common law, but rather any claims (common law or statutory) that are not predicated on the violation of a federal or state statute regarding the violation of firearms. . . . In this case, the negligence claim is *at least partially predicated* on the violation of various federal and state statutes. . . . These statutes concern the regulation of firearms as required by the PLCAA predicate exception. . . . Thus, the negligence claim is not preempted." (Emphasis added.) *Minnesota* v. *Fleet Farm LLC*, supra, 679 F. Supp. 3d 841. In the matters before the court, the plaintiffs' common law claims are based, at least in part, on violations of three predicate statutes—namely, CUTPA, the NFA, and the GCA.

The defendant moves to strike the common law claims to the extent each of those causes of action is not based *specifically* on the violation of a predicate statute. This requires the court to address the following question: in order to qualify for exemption from immunity under the predicate exception, must *each* common law claim—for example, each specification of negligence—be based upon the alleged knowing violation of a predicate statute, or is the knowing violation of a predicate statute—asserted within a given action as a whole—sufficient to prevent the preemption of all claims asserted in that action? Courts are divided on the issue.

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because Mexico's "complaint does not plausibly allege the kind of conscious . . . and culpable participation in another's wrongdoing needed to make out an aiding-and-abetting charge." (Internal quotation marks omitted.) Id., 291. In *Smith & Wesson Brands, Inc.*, the Supreme Court did not address the First Circuit's holding that the predicate exception encompasses common law claims, as long as there is a predicate statutory violation that proximately causes the harm.

As observed recently by one federal court, "[a] threshold issue disputed by the parties is whether PLCAA preemption is analyzed claim-by-claim or whether it is analyzed action-wide. . . . Under the claim-specific framework adopted by some courts, each cause of action against [a defendant] must satisfy an exception to PLCAA preemption. . . . Conversely, under the action-wide framework adopted by other courts, if even one claim satisfies an exception to PLCAA preemption, then the rest of the claims will be deemed not to be preempted." *Wiley*, *Co-Trustees for Wiley* v. *Fleet Farm, LLC*, supra, United States District Court, Docket No. 24-CV-4135 (LMP/JFD) This court agrees with the view that "the text of the [PLCAA] suggests that its applicability . . . [depends] upon on the nature of the case as a whole, rather than the nature of each individual claim. This would mean that if the sum of the allegations made in a particular case triggers one of the [PLCAA's] exceptions, the entire case is exempt from its scope. The first indication that this may be so comes from the fact that the [PLCAA] prohibits not the bringing of specific claims, but the bringing of a 'qualified civil liability *action*,' which, . . . is defined as 'a civil action or administrative proceeding' resulting from the criminal or unlawful misuse of a firearm or ammunition. [See] 15 U.S.C. § 7902 (a), 7903 (5) (A) . . . . The term 'action'—particularly the variant of 'civil action'—is often understood as a reference to a case as a whole, rather than to an individual claim. . . . The [PLCAA's] six exceptions, too, speak of 'actions,' . . . " (Emphasis in original.) *Ramos* v. *Wal-Mart Stores, Incorporated*, 202 F. Supp. 3d 457, 464–65 (E.D. Pa. 2016).

Using the "action wide" approach, courts have rejected the argument that a plaintiff "must show that each 'claim' set forth in her complaint satisfies one of the enumerated exceptions. . . . [B]ecause the court finds the predicate exception applicable to this action, it declines to engage in a claim-by-claim analysis . . . . This approach is consistent with the language of the statute itself, which does not apply to 'actions' in which a [knowing] violation is alleged." *Corporan* v. *Wal-Mart Stores East, LP*, supra, United States District Court, Docket No. 16-2305 (JWL). Accord *Chiapperini* v. *Gander Mountain Company, Inc.*, supra, 48 Misc. 3d 876 ("this court finds two applicable PLCAA exceptions thereby permitting the entire complaint to proceed through litigation, without the need for a claim-by-claim PLCAA analysis."); *State* v. *Glock, Inc.*, United States District Court, Docket No. 27-CV-24-18827 (CS) (D. Minn. August 21, 2025) ("Because the PLCAA only applies to a 'qualified civil liability action' and the six exceptions likewise apply to 'an action,' if an individual claim—or part of a civil action—fits into one of the exceptions, the entirety of the case is necessarily allowed to proceed"), petition for discretionary review denied, Court of Appeals, Docket No. A25-1567 (LDB) (Minn. App. October 21, 2025).

A recent case involving a mass shooting further illustrates the "action wide" view. See *Roberts* v. *Smith & Wesson Brands, Inc.*, Circuit Court, Docket No. 22 LA 00000487 (JLO) (Ill. Cir. Ct. April 1, 2025) (hereinafter *Roberts*). *Roberts* involved a July 4, 2022 incident in which "twenty-one-year-old Robert Crimo III positioned himself on a rooftop in downtown Highland Park[, Illinois,] and fired 83 rounds from an assault rifle into the crowd below that was gathered for the 4th of July parade.

Seven people were killed, 48 others were injured, and countless others suffered injuries in the aftermath. [The shooter] carried out this massacre using a Smith & Wesson . . . assault rifle that was allegedly manufactured, distributed, and ultimately sold to the shooter by the various [defendants] in this case." *Roberts*. The plaintiffs "set forth a number of legal theories as to why . . . Smith & Wesson should be held partly responsible for this tragedy[, including] . . . negligence claims against Smith & Wesson based on violations of the Illinois Consumer Fraud and Deceptive Business Practices Act . . . and the Illinois Uniform Deceptive Trade Practices Act . . . . (Footnote omitted.) Id. Similar to the defendant here, in *Roberts*, "Smith & Wesson argues that [the p]laintiff's common law claims are barred by the PLCAA . . . [asserting] that Congress clearly intended to preempt common-law claims including classic negligence . . . theories of liability." (Footnote omitted; internal quotation marks omitted.) Id.

In rejecting this argument, the *Roberts* court observed that Smith & Wesson's assertion "ignores the language in the PLCAA that it does not apply to *an action in which* a manufacturer or seller of a qualified product knowingly violated a [s]tate or [f]ederal statute." (Citation omitted; emphasis in original; internal quotation marks omitted.) Id. In other words, according to *Roberts*, so long as the "action"—as set forth in Section 7903 (5) (A) (iii)—involves the manufacturer's knowing violation of a predicate statute, the "action" is exempt from PLCAA immunity pursuant to the predicate exception. Id. (citing judicial decisions "[allowing] negligence claims premised, at least in part, upon alleged knowing violations of state unfair trade

practice statutes to proceed under the predicate statute exception."). In light of the fact that the amended complaints allege knowing violations of CUTPA, the NFA, and the GCA, the plaintiffs' common law claims may proceed pursuant to the predicate exception to PLCAA immunity established by Section 7903 (5) (A) (iii).

C

The last argument asserted by the defendant in connection with PLCAA immunity pertains only to the plaintiffs' claim in negligence per se. This contention is based upon an exception to PLCAA immunity that is *distinct* from the predicate exception of Section 7903 (5) (A) (iii). Subsection (ii) of Section 7903 (5) (A) provides that "[t]he term 'qualified civil liability action' . . . *shall not include*— . . . an action brought against a *seller* for negligent entrustment or negligence per se; . . ." (Emphasis added.) The defendant maintains that, as it is not alleged to be a "seller"—as provided by § 7903 (5) (A) (ii)—the negligence per se exception to PLCAA immunity cannot be applied.

The court need not address this issue in resolving the motions before the court. As the court has already held that the plaintiffs may maintain their common law claims against the defendant in their entirety—including the claim in negligence per se—based upon the predicate exception of § 7903 (5) (A) (iii), it is unnecessary to consider the defendant's argument that it is not a "seller" for purposes of § 7903 (5) (A) (ii). "In light of our conclusion that the second amended complaint alleged sufficient facts to bring this action within the PLCAA's predicate exception . . . we do not address [the] defendant's contentions regarding the negligent

entrustment and negligence per se exceptions to immunity . . . ." (Citations omitted.) *King* v. *Klocek*, supra, 187 App. Div. 3d 1616. See also *Brady* v. *Walmart Inc.*, supra, United States District Court, Docket No. 8:21-CV-1412 (AAQ) ("[B]ecause I [find] that [the p]laintiffs have satisfied the predicate exception, I need not determine whether the [negligent entrustment] exception has been satisfied, as well.").

V

Finally, the defendant argues that the court should strike "the marketing allegations of [the p]laintiffs' CUTPA claim because they have not sufficiently [pleaded] causation." See Stanisic Action, Docket Entry No. 1212, p. 23. "A plaintiff asserting a violation of CUTPA must prove that the ascertainable loss was caused by, or a result of, the prohibited act. General Statutes § 42-110g (a). . . . When plaintiffs seek money damages, the ['a result of'] language . . . in § 42-110g (a) requires a showing that the prohibited act was the proximate cause of a harm to the plaintiff. . . . [P]roximate cause is [a]n actual cause that is a substantial factor in the resulting harm . . . . The question to be asked in ascertaining whether proximate cause exists is whether the harm which occurred was of the same general nature as the foreseeable risk created by the defendant's act." (Internal quotation marks omitted.) *Deer* v. *National General Ins. Co.*, 225 Conn. App. 656, 701, 317 A.3d 19 (2024), aff'd, 353 Conn. 262, 341 A.3d 936 (2025). Accord *Medcalf* v. *Washington Heights Condominium Assn., Inc.*, 57 Conn. App. 12, 16–17, 747 A.2d 532, cert. denied, 253 Conn. 923, 754 A.2d 797 (2000) ("Proximate cause establishes a reasonable connection between an act or omission of a defendant and the harm

suffered by a plaintiff. . . . The Connecticut Supreme Court has defined proximate cause as [a]n actual cause that is a substantial factor in the resulting harm. . . . The substantial factor test reflects the inquiry fundamental to all proximate cause questions, that is, whether the harm which occurred was of the same general nature as the foreseeable risk created by the defendant's [wrongful conduct]." [Internal quotation marks omitted.]).

In advancing its argument, the defendant posits that a CUTPA claim must be pleaded with particularity, and that the plaintiffs' marketing claims are insufficient to support the necessary element of causation. Docket Entry No. 1212, p. 24. While it is true that "[a] claim under CUTPA must be pleaded with particularity to allow evaluation of the legal theory upon which the claim is based" (Internal quotation marks omitted.); *Keller* v. *Beckenstein*, 117 Conn. App. 550, 569 n.7, 979 A.2d 1055, cert. denied, 294 Conn. 913, 983 A.2d 274 (2009); it is also true that "[t]he question of proximate causation . . . belongs to the trier of fact because causation is essentially a factual issue. . . . It becomes a conclusion of law only when the mind of a fair and reasonable [person] could reach only one conclusion; if there is room for a reasonable disagreement the question is one to be determined by the trier as a matter of fact." (Internal quotation marks omitted.) *Orzech* v. *Giacco Oil Company*, 208 Conn. App. 275, 283, 264 A.3d 608 (2021). See also *State* v. *Glock, Inc.*, supra, United States District Court, Docket No. 27-CV-24-18827 (CS) (in case against gun manufacturer alleging violations of Minnesota's deceptive trade practices act, holding that "[t]he

existence of proximate cause in a particular case is a question of fact for the jury to decide.").

The court concludes that plaintiffs allege sufficiently the necessary element of causation in connection with their wrongful marketing claims under the CUTPA counts. To begin, the amended complaints allege that the defendant's conduct constituted a "knowing violation of" CUTPA, and further, that its conduct "was a proximate cause of and a substantial factor in causing then injuries, suffering, and death of [the plaintiffs' decedents]." See Stanisic Action, Amended Complaint, counts one, six, eleven, sixteen, and twenty-one, ¶¶ 118 and 119. This equates to a claim that the plaintiffs suffered damages as a result of the defendant's CUTPA-violative conduct. As observed by one court, "the plaintiff alleges that he suffered specific damages 'as a result' of the defendant's acts that are prohibited under CUTPA. The 'as a result of' phrasing tracks the language of § 42-110g (a) . . . . *At the motion to strike stage*, the plaintiff need only allege causation in order to have a legally sufficient cause of action. The plaintiff here alleges that he suffered specific harm 'as a result of' the defendant's alleged violation of CUTPA; that sufficiently alleges the causation element." (Emphasis added.) *Brown* v. *Yale-New Haven Health Services*, Superior Court, judicial district of Stamford-Norwalk, Docket No. CV-10-6005559-S (February 3, 2011, *Adams, J.*).

Moreover, the court concludes that, for purposes of the defendant's motions to strike, the plaintiffs have alleged facts sufficient to support the element of causation in connection with their marketing claims. Certainly, and as observed by the *Soto*

court, while proving at trial a causal link between the defendant's purportedly wrongful marketing of the AR-556 pistol and Alissa's conduct "may prove to be a Herculean task"; *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331 Conn 98; the defendant is not entitled to a dispositive ruling on the issue, as a matter of law, on a motion to strike. This is because the mass shooting at issue was of the same general nature as the foreseeable risk created by the defendant's alleged wrongful conduct. The plaintiffs assert, without limitation, that the defendant sought to profit from consumer demand for short-barreled rifles outside applicable regulatory requirements; the defendant designed the AR-556 pistol to function like an AR-15-style rifle, and configured it to increase concealability and maneuverability, thereby combining the accuracy and lethality of AR-15-style rifles with the tactical advantages of smaller weapons; the defendant marketed the AR-556 pistol to evade the NFA, GCA, and other federal regulatory requirements, and it did so in order to reach a target demographic, namely, persons interested in obtaining unregistered short-barreled rifles; the defendant promoted the AR-556 pistol's assaultive and militaristic nature, including its similarities to AR-15-style rifles; and the defendant's conduct inspired or induced Alissa to select the AR-556 pistol as his weapon of choice for conducting the mass shooting on March 22, 2021. See Docket Entry No. 1211, pp. 33–34. As our Supreme Court observed in *Soto*, the plaintiffs in that case "allege[d] that the defendants' wrongful advertising magnified the lethality of the Sandy Hook massacre by inspiring [the shooter] or causing him to select a more efficiently deadly weapon for his attack." *Soto* v. *Bushmaster Firearms International, LLC*, supra, 331

Conn. 98; see also, Id., 131 ("In the present case, the plaintiffs allege that the defendants' *illegally* marketed the XM15-E2S by promoting its criminal use for offensive civilian assaults, and that this wrongful advertising was a direct cause of the Sandy Hook massacre" [emphasis in original]). "We note that other courts and commentators have deemed this to be a plausible theory of causation." Id., 98 n.30.[26] See also *Salter* v. *Meta Platforms, Inc*., supra, 240 App. Div. 3d 1385 ("[w]ith respect to the causation element of § 7903 (5) (A) (iii), we reject [the defendant's] contention that it is entitled to dismissal at this stage. It is too early to determine as a matter of

[26] Although the defendant does not argue that the causal chain was broken in these matters as a result of Alissa's criminal conduct, thereby warranting the striking of all or part of the plaintiffs' claims, the court observes that such arguments have been rejected in decisions addressing the sufficiency of a pleading in similar circumstances. See, e.g., *Prescott* v. *Slide Fire Solutions, LP*, 410 F. Supp. 3d 1123, 1142 (D. Nev. 2019) (in case involving mass shooting, and "[a]ssuming that [the p]laintiff's allegations are true, as the [c]ourt must at this stage, [the defendant's] purposeful campaign to promote bump stocks as akin to machine guns establishes a foreseeable risk that third-party criminals may use bump stocks in furtherance of a military-style assault. Because of the potential for harm attendant to the sale of machine guns, and [the p]laintiffs' allegations that [the defendant] marketed bump stocks to 'circumvent' the federal prohibition on machine guns, the [c]ourt cannot say as a matter of law that [the defendant] owed no duty to [the p]laintiffs." [Footnote omitted.]); *New York* v. *Arm or Ally, LLC*, 718 F. Supp. 3d 310, 332 (S.D.N.Y. 2024) ("any intervening actions by third parties fail to warrant dismissal [under Fed. R. Civ. P. 12 (b) (6)] at this stage of the [proceedings]. Indeed, if a third party's unlawful act always undercuts proximate cause, the predicate exception would be meaningless." [Internal quotation marks omitted.]); *Williams* v. *Beemiller, Inc*., 103 App. Div. 3d 1191-192, 962 N.Y.S.2d 834 (2013) (in ruling on motion to dismiss, observing that an "intervening criminal act does not necessarily sever the causal connection between the alleged negligence of [the] defendants and [the] plaintiff's injury. . . . Rather, liability turns upon whether the intervening act is a normal or foreseeable consequence of the situation created by the defendant[s'] negligence." [Citation omitted; internal quotation marks omitted.]).

law whether only one conclusion can be drawn on the issue of causation" [internal quotation marks omitted]). The defendant's causation argument fails.

CONCLUSION

For the foregoing reasons, the defendant's motions to strike (Getz Action, Docket Entry No. 185; Stanisic Action, Docket Entry No. 1211) are DENIED.

PIERSON, J.