

Attorneys:

- **Monte E. Frank**
mfrank@pullcom.com
203.330.2262

Connecticut Supreme Court vastly expands the scope of the Connecticut Unfair Trade Practices Act (“CUTPA”)

March 15, 2019

In a landmark decision, the Connecticut Supreme Court reinstated a case brought by the Sandy Hook families against Bushmaster, Remington, and other gun manufacturers in the case of *Soto v. Bushmaster*. While the focus of this case ought to remain on the families and the Newtown community with whom we have significant ties, this decision has broad implications for the business community, and we write to you to alert you to that aspect of the decision.

A unanimous Court concluded that families were permitted to bring CUTPA claims for wrongful advertising leading to wrongful death against Bushmaster and other manufacturers of the XM15-E2S semiautomatic rifle. The plaintiffs alleged that the manufacturers advertised the use of the rifle to civilians in a manner which promoted its ability to wage war, a subject that was beyond the scope of self-defense. The defendants moved to strike, arguing that the plaintiffs were not entitled to bring a CUTPA claim because, as third parties who had not purchased products from the gun manufacturers, the plaintiffs did not have a commercial relationship with the defendants. Previously, a commercial relationship was understood to be a threshold requirement of a CUTPA claim.

In concluding that a commercial relationship is no longer required, the Supreme Court focused on the fact that General Statutes § 42-110g (a) creates a private right of action in favor of “*Any person who suffers any ascertainable loss of money or property . . . as a result of the use or employment of a method, act or practice prohibited by [CUTPA].*” (Emphasis in original.) The Court concluded that this provision must be read to extend CUTPA protection to anyone who claims an injury, whether or not that person has a commercial relationship with the defendant. The decision represents a major expansion of the possible plaintiffs able to bring an unfair trade practice claim.

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The Court also held as a matter of first impression that CUTPA permits recovery for personal injuries resulting directly from wrongful advertising. Beyond that, the Court also extended the time period during which plaintiffs can bring a CUTPA claim, concluding that advertising up to the time of filing can permit a plaintiff to avoid what is otherwise a three-year limitations period on CUTPA claims.

Clearly, this decision has broad implications not only on advertising practices, but also on the scope of CUTPA litigation. Please contact us to discuss how this decision may impact you and best practices.

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