

AN UNJUST ASSAULT ON GUNS

Lawsuits Against Gun Manufacturers Attack Rational Legal Standards and Punish the Innocent

By [Robert W. Tracinski](#)

The mayors of our big cities are launching a massive class-action lawsuit, demanding that firearms manufacturers pay for gun-related deaths caused by violent criminals. It is the gunmakers--the mayors say--who must be held accountable for such crimes.

This suit is the latest attempt to destroy rational standards in liability law. It is the continuation of a dangerous trend that seeks to eliminate the individual's responsibility for his own actions. If successful, this lawsuit will give our courts almost limitless power to shut down the manufacturers of legal and legitimate products.

In reason and in justice, no company should be liable for the misuse of its product. If a car is built with faulty brakes, it is the manufacturer who is responsible for any resulting harm. It is not the driver's fault, since he was defrauded. But the automaker is not responsible if a driver recklessly and deliberately runs down a pedestrian. There, the driver clearly chooses to cause the injury. The new anti-gun suit seeks to wipe out this obvious distinction.

But--one might object--aren't guns an inherently dangerous product? It is true that guns, unlike cars, are designed to injure and kill. But, like cars, they do have a legitimate use: self-defense. Just as there is a difference between a responsible motorist and a hit-and-run driver, so there is a fundamental difference between a store owner who keeps a gun to defend himself, and an armed robber who tries to steal his goods--or between a woman who has a gun in her purse for protection and a rapist who attacks her.

A gun is a tool. If a person uses that tool responsibly, it poses a danger only to criminals. It is the gun owner's choice--not the mere existence of the object, and not its manufacture and sale--that determines its use.

Liability law ought to be based on the principles of individual responsibility: the idea that an individual is liable for harm caused by his own actions. But the suit against gun manufacturers seeks to shift this responsibility to an inanimate object and to its manufacturer.

This overthrow of individual responsibility punishes manufacturers for any negative effects involving their products. It punishes liquor and tobacco companies for the consequences of the individual's decision to drink or to smoke. There are no limits to the suits that could be brought under this standard. Automakers could be sued for the actions of the getaway driver in a robbery; cutlery manufacturers could be sued whenever someone is stabbed; pillow makers could be sued for murders by suffocation. The only limit to such suits is the imagination--and lust for corporate loot--of prosecutors and ambulance-chasing lawyers.

In fact, such imaginations have already run wild in a wave of frivolous lawsuits: the woman who sued McDonald's because she burned herself with hot coffee, the man who sued a heavy metal band because he damaged his hearing by going to loud rock concerts--the examples are endless. Time and again, the standard of individual responsibility has been attacked in favor of a legal philosophy that diverts responsibility to anyone with "deep pockets."

This lawsuit would give plaintiffs the arbitrary power to attack the maker of virtually any product.

But perhaps this unlimited power is precisely the point of the suit. As Ellsworth Toohey, the villain of Ayn Rand's *The Fountainhead*, admonishes: "Never bother to examine a folly. Ask only what it accomplishes." What the suit against gunmakers would accomplish is a de facto gun ban, since no manufacturer could afford to sell guns to the public under this perverse standard of liability.

And this would be achieved without the need for any legislative process or for any judicial consideration of the Second Amendment.

The result of such a ban would be to shift the punishment for violent acts to innocent parties--not only to the gun manufacturers, but also to the law-abiding individuals who would be denied the right to buy guns for their own protection.

The purpose of our legal system is to dispense justice, which means: to punish the criminal and to protect the innocent. This suit is an attempt to subvert justice--to punish the innocent and to deny the individual responsibility of criminals.

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