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## Exploring Civil Justice for Victims of the Lewiston Mass Shooting

By Travis Brennan, Esq. and Ben Gideon, Esq.

On October 25, 2023, a deranged, lone gunman killed 18 innocent people in Lewiston, injuring 13 others, with a military-style AR-10 assault rifle. Although mass shootings like this have become commonplace in America, this was our first experience with it here in Maine. While we have all been saddened and dismayed by the mass shooting epidemic for years, there is still something quite different about having it happen here. This is not supposed to happen in Maine.

When we look back on this event years from now, the question will be whether the Lewiston mass shooting event was merely the first of many here, or whether it will serve as a wake-up call for action, accountability, and change that will make our communities safer. As lawyers, we all share a unique responsibility to use our knowledge of the law, power, and influence to insist upon accountability and meaningful change. This is why our law firms (GideonAsen and Berman & Simmons) have decided to work together to seek civil accountability from those responsible for this shooting.

We recognize that lawsuits are not the answer to every problem. Indeed, we would go a step further: when it comes to preventing mass shootings, lawsuits are far from the ideal solution. But other solutions seem to be in short supply. Our federal and state governments have done little to seriously tackle the problem, and it can seem that hurdles to sensible reforms are insurmountable.

Looking at the political landscape, it is easy to become hopeless. But the civil justice system can provide some measure of justice and deter bad conduct. While seeking accountability in the courts in this area is far from easy, there have been some remarkable successes.

Consider previous cases brought

by the two lawyers with whom we are collaborating on these cases: Josh Koskoff of Koskoff Koskoff & Bieder (based in Bridgeport, CT) and Jamal Alsaffar of National Trial Law (based in Austin, TX).

Josh represented the families of the mass shooting at the Sandy Hook Elementary School in Connecticut. In that case, Josh overcame significant legal obstacles and was able to achieve a \$73 million settlement from the Remington Firearms Corporation on behalf of the Sandy Hook families. Josh did this by proving that Bushmaster (later acquired by Remington) employed dangerous and deceptive marketing tactics to pedal AR-style assault weapons to isolated and mentally unstable young men, like Adam Lanza, who committed those terrible atrocities. Josh was able to overcome the federal immunity for firearms manufacturers and to achieve a landmark decision by the Supreme Court of Connecticut that paved the way for other similar cases.

The AR model weapon is by far the preferred weapon of choice for those committing mass murder. In his case, Josh demonstrated that, until recently, there was simply no market for this type of military assault weapon for a civilian population. Rather, the market for these weapons was wholly created by the gun industry, which promoted fear and used lucrative tie-in contracts with video game manufacturers to target their messaging to children.

The gun industry did this solely because selling these weapons was incredibly lucrative. The new marketing was enormously successful, and within the last decade, the sales of assault weapons went from fewer than a couple of hundred per year to millions.

Jamal Alsaffar took a different approach. He represented the families of a mass shooting in Sutherland Springs, Texas, which occurred in a small rural church and resulted in the deaths of 26 people. In that case, the shooter was a former Air Force member, who had a long history of criminal convictions,



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mental health issues, and expressed intent to commit violence, including mass shootings. Despite that history, the Air Force failed to take the legally required steps to report the shooter to the FBI databank, which allowed the shooter to continue purchasing firearms because his history did not come up in federal background checks.

Jamal sued the federal government on behalf of his clients. He tried the case before a Republican-appointed judge (under the Federal Tort Claims Act, there is no right to a jury trial), and obtained a judgment of \$230 million.

Perhaps more importantly, the information brought to light by that case resulted in the Air Force completely revamping its policies regarding the reporting of those within its ranks who are unfit and unsafe to purchase or possess firearms. It is likely that the changes forced upon the United States government by Jamal's work in that case have prevented, and will continue to prevent, other mass shooting events.

As Jamal has explained to the victims who have approached our team, the events of the Lewiston shooting are eerily similar to what happened in Sutherland Springs. As in Sutherland Springs, the shooter was a member of the US military, in this case, the Army Reserve.

As in Sutherland Springs, the shooter had been committed to a psychiatric hospital for treatment and had specifically expressed the intent to commit violent acts, including a mass shooting. As in Sutherland Springs, the military secured its own premises and upgraded its own security to protect itself but did not report the individual to the FBI background database or take further steps to ensure he was separated from his weapons and would be prevented from purchasing additional firearms. Here in Maine, the shooter did purchase additional firearms in the days leading up to the October 25

shooting.

Of course, there are many details surrounding the Lewiston shooting that remain unknown. Some of those details will be unearthed by local reporting. Others, hopefully, will come to light through the panel created by Governor Mills to investigate the events leading up to the Lewiston shooting.

But often, litigation is a critical and necessary component to discover the complete story. We intend to do our part to ensure the victims of this tragedy, and the public, have a complete accounting of what happened on October 25, why it happened, and who is accountable so that the system can be fixed and prevent another tragedy.

*Benjamin Gideon earned his JD from the Yale Law School and served as a law clerk to judges on the Federal Courts. Before leaving to open his own firm, Gideon Asen LLC, in November 2020, Gideon was a shareholder at the Lewiston based law firm, Berman & Simmons PA.*

*Travis Brennan is a Maine native who attended Bowdoin College and Maine Law before serving as a law clerk to Maine Supreme Judicial Court. He is a shareholder at Berman & Simmons where he maintains an active trial practice.*

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### STATE OF MAINE SUPREME JUDICIAL COURT SEEKS PUBLIC MEMBER FOR GAL REVIEW BOARD

The Maine Supreme Judicial Court recently announced that it is seeking a member of the public (a Maine resident, non-lawyer, and someone who is not already a guardian *ad litem*) to serve on the Guardian *Ad Litem* Review Board. The GAL Review Board is comprised of eight rostered guardians and four members of the public, and investigates complaints made against guardians *ad litem*. The Board meets regularly in Augusta, and members serve on a volunteer basis. More information regarding the Board and its duties is available at: [https://www.mebaroverseers.org/gal\\_review\\_board/index.html](https://www.mebaroverseers.org/gal_review_board/index.html).

Interested individuals should send an application letter and resume to Matthew Pollack, Executive Clerk of the Supreme Judicial Court, either by mail to 205 Newbury St Rm 139, Portland ME 04101, or as native .pdf documents attached to an email to [lawcourt.clerk@courts.maine.gov](mailto:lawcourt.clerk@courts.maine.gov). Applications must be received by December 29, 2023.