

STATE OF MICHIGAN

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IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

ALAN ROBINETTE,
Plaintiff,

vs

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97-000806-N0



Cas
Hon

OAKLAND JUDGE STEVEN N. ANDREWS
COUNTY ROBINETTE, AL vs HICKEY, ROBE

97 OCT 27 P4 05

ROBERT HICKEY, Individually,
CONNECTICUT VALLEY ARMS, INC.,
a Georgia Corporation,
DIKAR, S. COOP. LTDA, NY,
a Foreign Corporation, and
MEIJER, INC.,
a Michigan Corporation,
jointly and severally,
Defendants.

LAWRENCE R. ROTHSTEIN (P19697)
MARIO J. AZZOPARDI (P46971)
Attorneys for Plaintiff
19068 W. Ten Mile Road
Southfield, MI 48075
(248) 355-2048

There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in this Complaint.

ROTHSTEIN, ERLICH AND ROTHSTEIN

By: *Lawrence R. Rothstein*
LAWRENCE R. ROTHSTEIN (P19697)

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, ALAN ROBINETTE, by and through his attorneys, ROTHSTEIN, ERLICH AND ROTHSTEIN, and in support of his Complaint against the Defendants, shows unto this Honorable Court

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as follows:

GENERAL ALLEGATIONS

1. That the Plaintiff, ALAN ROBINETTE, was at all times relevant hereto, a resident of the City of Warren, County of Macomb, State of Michigan.

2. That, based upon information and belief, the Defendant, ROBERT HICKEY, was at all times relevant hereto, a resident of the State of Georgia, whose business address is 5988 Peachtree Corners East, Norcross, Georgia, and who was/is the president of Defendant, CONNECTICUT VALLEY ARMS, INC.

3. That, based upon information and belief, Defendant, CONNECTICUT VALLEY ARMS, INC., hereinafter referred to as "CVA", was, at all relevant times hereto, a Georgia corporation, whose home office address is 5988 Peachtree Corners East, Norcross, Georgia 30071, whose agent for service of process is Mr. Hugh R. Powell, Jr., located at 6487 Peachtree Industrial Boulevard, Suite A, Doraville, Georgia 30360, and was conducting business in the County of Oakland, State of Michigan.

4. That, based upon information and belief, Defendant, DIKAR, S. COOP. LTDA, hereinafter referred to as "DIKAR", was, at all relevant times hereto, a foreign corporation, whose home office address is Urate Kalea 26, Poligono Industrial San Lorenzo, 20570 Bergara, Spain, and was conducting business in the County of Oakland, State of Michigan.

5. That, based upon information and belief, Defendant, MEIJER, INC., hereinafter referred to as "MEIJER", was, at all

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relevant times hereto, a Michigan corporation, whose resident agent is Mr. Frederick D. Kolk, located at 2929 Walker NW, Grand Rapids, Michigan 49544, and was conducting business in the County of Oakland, State of Michigan.

6. That this case involves injuries sustained in the purchase, use and/or operation of a Connecticut Valley Arms Stag Horn .50 caliber muzzleloading rifle which malfunctioned/misfired in the City of Oxford, County of Oakland, State of Michigan.

7. That the amount in controversy herein exceeds the sum of Ten Thousand and 00/100 (\$10,000.00) Dollars, exclusive of interest, costs, and attorney fees.

COUNT I - NEGLIGENCE/ GROSS NEGLIGENCE

8. Plaintiff herein re-incorporates and realleges paragraphs 1 through 7 of the General Allegations of this Complaint with the same force and effect as if same were set forth in full hereunder, and further states:

9. That on or about December 8, 1996, Plaintiff purchased a CVA .50 caliber muzzleloading Stag Horn rifle, a product as defined under Michigan statutory and common law, which was manufactured/co-manufactured, designed/co-designed, marketed/co-marketed by Defendants, ROBERT HICKEY, CVA and DIKAR.

10. That on or about December 8, 1996, Plaintiff, ALAN ROBINETTE, purchased the CVA .50 caliber muzzleloading Stag Horn rifle from Defendant, MEIJER, at its store located at 2000 16 Mile Road, in the City of Sterling Heights, County of Macomb, State of Michigan.

THOMSON SUBCOMMITTEE REPORT

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11. That on or about December 8, 1996, Defendant, MEIJER, was a vendor/seller/distributor/marketer of said CVA Stag Horn .50 caliber muzzleloading Stag Horn rifle in the State of Michigan.

12. That on or about December 15, 1996, Plaintiff, ALAN ROBINETTE, loaded and fired said CVA Stag Horn rifle to test the rifle's sights while in the City of Oxford, County of Oakland, State of Michigan.

13. That on or about December 15, 1996, while Plaintiff was firing said CVA Stag Horn rifle, the rifle malfunctioned and exploded in his face and hands, said rifle having been used in a reasonably foreseeable and intended manner.

14. That at all times relevant and material hereto, said CVA Stag Horn rifle was defective in manufacture, construction and design/formulation, and failed to comply with relevant state and/or federal rules, standards and/or regulations.

15. That Plaintiff, ALAN ROBINETTE, had no knowledge and could not have had any foreseeable knowledge that the CVA Stag Horn rifle presented an unreasonable risk of injury as that suffered by Plaintiff.

16. That the Defendants, ROBERT HICKEY, CVA, DIKAR and MEIJER, were grossly negligent in the manufacture/co-manufacture, design/co-design, sale, marketing and/or vendoring of said CVA muzzleloading rifle since their conduct was so reckless as to demonstrate a substantial lack of concern for whether an injury resulted.

17. That the Defendants, ROBERT HICKEY, CVA, DIKAR and

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MEIJER, were grossly negligent by virtue of their marketing of said CVA rifle having made implied and expressed warranties that the rifle was reasonably fit for the general uses and purposes intended, and that it was free of any defects in its design or construction.

18. That Defendant, MEIJER, INC., impliedly and/or expressly recommended the sale of and/or purchase of said CVA muzzleloading rifle by Plaintiff and impliedly and/or expressly warranted said gun was safe, dependable, reliable and free of any defects in its design or construction.

19. That Defednants, ROBERT HICKEY, CVA, DIKAR and MEIJER, breached the following duties owed to the Plaintiff, ALAN ROBINETTE, both statutory and common law, by way of illustration and not limitation:

A. Defendants knew or should have known of the defective and hazardous condition of the CVA .50 muzzleloading Stag Horn rifle based on the scientific and/or technical information reasonably available at the time of sale/distribution of the product;

B. Defendants had actual and/or constructive knowledge that this model rifle was defective at the time of sale and/or distribution;

C. Defendants had actual and/or constructive knowledge that there was a substantial likelihood the defective and hazardous condition of this rifle would cause the injuries sustained by Plaintiff;

D. Defendants wilfully and wantonly disregarded their actual and/or constructive knowledge of the defects and the substantial likelihood it would cause severe injuries;

E. Failing to implement generally accepted production practices at the time of manufacture and distribution of the rifle, which provide practical and technically feasible alternatives in production practice currently available and would have prevented the harm without impairing the usefulness or desirability of the gun;

F. Defendants failed to inspect and test the rifle during and after the course of manufacturing to render the rifle safe for its users;

G. Failing to furnish a rifle which is not unreasonably dangerous when used in the manner it was intended;

H. Failing to design a rifle safe for its intended and reasonably anticipated uses;

I. Failing to use reasonable and ordinary care in planning or designing a rifle so that it is reasonably safe for its intended purposes;

J. Manufacturing/co-manufacturing, designing/co-designing, selling, marketing and/or distributing a rifle which was not reasonably fit for its intended uses;

K. Failing to protect against risks that are unreasonable and foreseeable;

L. Failing to supply appropriate warnings or instructions necessary for safe use.;

M. Manufacturing/co-manufacturing, designing/co-designing, selling, marketing and/or distributing a rifle carelessly and heedlessly in willful disregard of the safety of the public, without due caution and circumspection, so as to endanger persons and property;

N. Failing to take reasonable precautions to prevent injuries such as incurred by the Plaintiff;

O. Failing to adequately warn users of the CVA rifle of the rifle's latent risks of injury;

P. Failing to warn of dangers Defendants knew or had reason to know of in the rifle's manufacture, design and/or assembly;

Q. Allowing a dangerous condition to exist by manufacturing/co-manufacturing, designing/co-designing, selling, marketing and/or distributing a rifle with an improperly machined/casted barrel, nipple-plug, bolt, and/or breach-cap;

R. Allowing a dangerous condition to exist by manufacturing/co-manufacturing, designing/co-designing, selling, marketing and/or distributing a rifle with an improperly assembled barrel, nipple-plug, bolt, and/or breach-cap;

S. Failing to supervise the manufacture/design and assembly of the rifle to insure that its condition was safe for the public's use;

T. Failing to properly train, supervise, manage and/or instruct their employees, agents and/or representatives; and

U. Committing other acts and/or omissions which

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constitute breaches of duties owed Plaintiff.

20. That in the happening of the aforesaid accident, Plaintiff, ALAN ROBINETTE, was not negligent.

21. That as a direct and proximate result of the aforesaid breaches of duties and the gross negligence of the Defendants, the CVA rifle violently exploded and Plaintiff was struck by gunpowder and metal shrapnel and debris with great force and impact, causing Plaintiff, ALAN ROBINETTE, to suffer severe, serious, painful, permanent, and disabling injuries, serious disfigurement, and a permanent loss of sight and/or a permanent loss of a vital bodily function(s).

22. That as a direct and proximate result of the aforesaid negligence and breaches of duties of the Defendants, the Plaintiff, ALAN ROBINETTE, was made to suffer serious and disabling injuries to his skeletal system, nervous system, and the muscles, tendons, ligaments, nerves, and tissue of his head, neck, face, eyes, hands and other parts of his body, including a closed head injury, as well as other serious and disabling injuries, the nature and extent of which are not completely known at this time.

23. That as a result of the aforesaid accident, the Plaintiff suffered, continues to suffer, and will continue to suffer great pain, discomfort, embarrassment, humiliation, mental anguish, depression, gross anxiety, indignity, and inconvenience.

24. That prior to the accident, Plaintiff was in reasonably good health and was able to and did participate in most of the usual activities of life, but since said accident, Plaintiff has

been under medical care and in a state of continued pain, stress, and discomfort, all preventing him from engaging in many of those activities he engaged in prior to the accident.

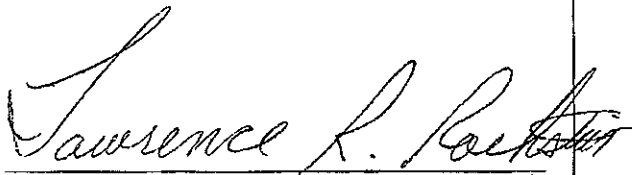
25. That as a result of the accident, the Plaintiff, ALAN ROBINETTE, was made to suffer painful and debilitating injuries requiring medical treatment, including hospital treatment, multiple surgeries, physical rehabilitation therapy, nursing services, and other medical treatment.

26. That as a result of the accident, the Plaintiff, ALAN ROBINETTE, has incurred significant doctor bills, medical bills, and hospital bills and will continue to do so in the future.

27. That, additionally, the Plaintiff, ALAN ROBINETTE, suffered significant loss of earnings and a permanent diminution of his earning capacity.

WHEREFORE, Plaintiff, ALAN ROBINETTE, respectfully requests that this Honorable Court grant judgment in favor of the Plaintiff against the Defendants, jointly and severally, for whatever amount to which Plaintiff is found to be entitled, together with interest, costs, and attorney fees.

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By: 
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Dated: October 21, 1997