

IN THE CIRCUIT COURT OF OUACHITA COUNTY, ARKANSAS

SHANE CURTIS

PLAINTIFF

VS.

NO. CV-2003-186-6

CONNECTICUT VALLEY ARMS, INC., a/k/a
CONNECTICUT VALLEY FIREARMS, INC.
BLACKPOWDER PRODUCTS, INC.,
DENNIS FALWELL d/b/a WESTERN AUTO
ASSOCIATE STORE,
ELLETT BROTHERS, INC.,
HODGDON POWDER COMPANY, INC.,
KNIGHT RIFLES, INC., an Affiliate of EBSCO, INC.,
NOSLER, INC.,
CCI/SPEER, a Division of ALLIANT TECHSYSTEMS, INC.,
AND JOHN DOES 1-6

DEFENDANTS

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Astrid Korman
CLERK OF COURT
OUACHITA COUNTY ARK

FILED

COMPLAINT

Comes now the Plaintiff, Shane Curtis, by and through his attorneys, H. L. (Buddy) Slate, James F. Swindoll and the Law Offices of James F. Swindoll, and for his cause of action against the defendants, Connecticut Valley Arms, Inc., a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, Ellett Brothers, Inc., Hodgdon Powder Company, Inc., Knight Rifles, Inc., an affiliate of EBSCO, Inc., Nosler, Inc., CCI/Speer, a division of Alliant Techsystems, Inc., and John Does 1-6, alleges and states:

1. That the plaintiff is and was at all times relevant hereto a resident of Ouachita County, Arkansas.
2. That defendant Connecticut Valley Arms, Inc., a/k/a Connecticut Valley Firearms, Inc., is a Georgia corporation with offices at 6487 Peachtree Industrial Boulevard, Doraville, Georgia 30360; whose registered agent for service of process is

Robert Hickey, 5988 Peachtree Corners East, Norcross, Georgia 30071; and who, at all times relevant hereto, was engaged in the manufacture, assembly, distribution and sale of the subject in-line muzzleloading rifle.

3. That defendant Blackpowder Products, Inc. is a Georgia corporation with offices at 5988 Peachtree Corners East, Norcross, Georgia 30071; whose registered agent for service of process is Robert Hickey, 5988 Peachtree Corners East, Norcross, Georgia 30071; which, at all times relevant hereto, was engaged in the manufacture, assembly, distribution and sale of the subject in-line muzzleloading rifle; which is a successor corporation to defendant Connecticut Valley Arms, Inc.; and which was designed to be the alter ego and to continue the business of defendant Connecticut Valley Arms, Inc., and all liabilities of Connecticut Valley Arms, Inc. are imputed by law to Blackpowder Products, Inc.

4. That defendant Dennis Falwell d/b/a Western Auto Associate Store is an unincorporated entity with offices at 113 South Adams Avenue, Camden, Ouachita County, Arkansas; which at all times relevant hereto was engaged in the retail sale of the subject in-line muzzleloading rifle.

5. That defendant Ellett Brothers, Inc. is a South Carolina corporation; whose registered agent for service of process is Roger Miller, 267 Columbia Avenue, Chapin, South Carolina 29036; and which, at all times relevant hereto, was engaged in the marketing, sale, and distribution of the subject in-line muzzleloading rifle.

6. That defendant Hodgdon Powder Company, Inc. is a Kansas corporation with offices at 6231 Robinson, Johnson, Kansas 66202; whose registered agent for service of process is Douglas H. Delsemme, 6231 Robinson, Johnson, Kansas 66202;

and which, at all times relevant hereto, was engaged in the manufacture, distribution and sale of the subject Pyrodex muzzleloading propellant recommended by defendants Connecticut Valley Arms, Inc. a/k/a Connecticut Valley Firearms, Inc. and Blackpowder Products, Inc. and which was properly used by the plaintiff herein.

7. That defendant Knight Rifles, Inc., an affiliate of EBSCO, Inc., is an Iowa corporation; whose registered agent for service of process is William Anthony Knight, 19882 140th Avenue, Plano, Iowa 52581; and which, at all times relevant hereto, was engaged in the manufacture, distribution and sale of the subject muzzleloading sabots properly used by the plaintiff herein.

8. That defendant Nosler, Inc. is an Oregon corporation with offices at 107 SW Columbia, Bend, Oregon 97702; whose registered agent for service of process is Robert A. Nosler, 107 SW Columbia, Bend, Oregon 97702; and which, at all times relevant hereto, was engaged in the manufacture, distribution and sale of the subject .44 caliber bullets properly used by the plaintiff herein.

9. That defendant CCI/Speer, a division of Alliant Techsystems, Inc., is a foreign corporation doing business in the state of Arkansas, and which, at all times relevant hereto, was engaged in the manufacture, distribution and sale of the subject percussion caps properly used by the plaintiff herein.

10. That Defendants John Does 1-6 are various entities currently unknown to the plaintiff, and who are engaged in the manufacture, assembly, distribution and sale of the subject in-line muzzleloading rifle or components thereof, and are engaged in placing said subject in-line muzzleloading rifles or components in the stream of commerce in the United States of America, the state of Arkansas, and ultimately to the plaintiff.

11. That jurisdiction is proper since the plaintiff resides in Ouachita County, Arkansas and since the defendants are corporations doing business in Arkansas. Further venue is proper since the events that give rise to this Complaint occurred in Ouachita County, Arkansas.

12. That the plaintiff, at all times relevant hereto, was free from all fault, and was acting with due regard for his own safety.

13. That notice sufficient to comply with Arkansas law has been given to the defendants herein.

14. That the defendants, at all times relevant hereto, were and are in the business of designing, manufacturing, marketing, fabricating, producing, assembling, supplying, importing, distributing and/or selling the subject in-line muzzleloading rifle, the component parts thereof, propellant, and projectiles being used at the time of the incident complained of herein.

15. That on or about October 19, 2000, the plaintiff, Shane Curtis, was firing his CVA Stag Horn .50 caliber in-line muzzleloading rifle, serial number 0.2, 61-13-044011-95, while using the defendants' Pyrodex muzzleloading propellant, sabots, percussion caps, and .44 caliber bullets.

16. That said in-line muzzleloading rifle had been purchased at the Western Auto Associate Store in Camden, Ouachita County, Arkansas; that at all times relevant hereto, the plaintiff was properly using the in-line muzzleloading rifle, powder, sabots, percussion caps and bullets; and, he was unaware of any dangers to users such as himself.

distributed, and sold said in-line muzzleloading rifle, as aforesaid, which proximately caused the plaintiff to sustain severe and permanent injuries and losses. Said negligence includes but is not limited to:

- (a) negligent design of the subject in-line muzzleloading rifle and its component parts;
- (b) negligent selection and use of the component parts of the in-line muzzleloading rifle;
- (c) negligent configuration of the interaction of the component parts;
- (d) negligent manufacture and assembly of the component parts of the subject in-line muzzleloading rifle;
- (e) negligent instruction on the subject in-line muzzleloading rifle which fail to adequately instruct its users on dangers of malfunction or failure;
- (f) inadequate warnings on the subject in-line muzzleloading rifle which fail to adequately warn the users of dangers of malfunction or failure;
- (g) negligently failing to adequately recall the subject in-line muzzleloading rifle;
- (h) negligently failing to warn the user after the sale of the emerging dangers of usage of the subject in-line muzzleloading rifle; and,
- (i) negligently failing to otherwise use ordinary care under the circumstances.

20. That at the time of the manufacture, distribution, assembly, and sale of the subject in-line muzzleloading rifle used by the plaintiff, the defendants Connecticut Valley

Arms, Inc. , a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, and Ellett Brothers, Inc., acting in concert, knew or should have known in the exercise of reasonable care the particular purpose for which said in-line muzzleloading rifle was to be used. The defendants Connecticut Valley Arms, Inc. , a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, and Ellett Brothers, Inc., acting in concert, expressly and impliedly warranted the subject in-line muzzleloading rifle as adequate for its intended use and should have known in the exercise of reasonable care that the plaintiff was relying upon said defendants' warranties, judgment and skill to safely use the subject in-line muzzleloading rifle. The breaches of express and implied warranties were a proximate cause of the injuries as hereinafter alleged.

21. That defendants Connecticut Valley Arms, Inc. , a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, and Ellett Brothers, Inc., acting in concert, became aware at least by 1997 that the subject in-line muzzleloading rifles were defective and unreasonably dangerous, failed to recall or otherwise warn of this known danger, and put profits over people; that said defendants knew or should have known, in the light of the surrounding circumstances, that their conduct would naturally and probably result in injuries and damages to users such as the plaintiff and that they continued such conduct with malice and with reckless disregard of the consequences from which malice may be inferred; and that said conduct subjects the defendants Connecticut Valley Arms, Inc. , a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, and Ellett Brothers, Inc., jointly and severally, to punitive damages.

22. That defendant Hodgdon Powder Company, Inc., Knight Rifles, Inc., an affiliate of EBSCO, Inc., Nosler, Inc., and CCI/Speer, a division of Alliant Techsystems, Inc., acting in concert, supplied the components for combustion and discharge of the projectile fired by the plaintiff on October 20, 2000, and that said components were defective and unreasonably dangerous in that the resulting explosion was a proximate cause of injuries to the plaintiff.

23. That defendants John Does 1-6 participated in the manufacture, assembly, distribution and sale of the subject in-line muzzleloading rifle, component parts of the rifle, the propellant, and the projectiles involved in the combustion and discharge of the projectile fired by the plaintiff on October 20, 2000, and that said components were defective and unreasonably dangerous in that the resulting explosion was a proximate cause of injuries to the plaintiff.

24. That as a direct and proximate result of the defendants' conduct, the plaintiff, Shane Curtis, incurred severe and permanent personal injuries which include loss of vision, damage to his eye, pain and suffering, scarring and defamation, wage loss, loss of earning capacity, care taking expenses, and other damages both past and future in a sum in excess of the minimum federal jurisdictional limits.

25. That as a direct and proximate result of the defendants' conduct, the plaintiff has incurred doctor, medical, and hospital bills, and will in the future incur additional doctor, medical, and hospital bills for treatment of his injuries.

26. That as a direct and proximate result of the defendants' conduct both jointly and severally, the plaintiff has experienced past, present, and future physical pain and

suffering and mental anguish as a result of his injuries in a sum in excess of the minimum federal jurisdictional limits.

27. That as a direct and proximate result of the defendants' conduct both jointly and severally, the injuries sustained by the plaintiff have affected both his past and present wages, and his future earnings capacity in a sum in excess of the minimum federal jurisdictional limits.

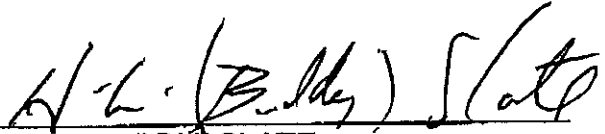
28. That the plaintiff is entitled to punitive damages from defendants Connecticut Valley Arms, Inc., a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc., Dennis Falwell d/b/a Western Auto Associate Store, and Ellett Brothers, Inc. in a sum in excess of the minimum federal jurisdictional limits.

29. That the plaintiff demands a trial by jury.

WHEREFORE, the plaintiff prays he have judgment of and against the defendants, Connecticut Valley Arms, Inc., a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, Ellett Brothers, Inc., Hodgdon Powder Company, Inc., Knight Rifles, Inc., an affiliate of EBSCO, Inc., Nosler, Inc., CCI/Speer, a division of Alliant Techsystems, Inc., and John Does 1-6, jointly and severally, in a sum in excess of the minimum federal jurisdictional limits, for punitive damages against defendants Connecticut Valley Arms, Inc., a/k/a Connecticut Valley Firearms, Inc., Blackpowder Products, Inc, Dennis Falwell d/b/a Western Auto Associate Store, and Ellett Brothers, Inc., in a sum in excess of the minimum federal jurisdictional limits, for a trial by jury, for his costs herein expended, and for all other just and proper relief to which he might be entitled.


Respectfully submitted,

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By: 
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