

FILED IN OFFICE
CLERK STATE COURT
CONNECTICUT COUNTY, GA

IN THE STATE COURT OF DEKALB COUNTY
STATE OF GEORGIA

2003 APR -7 PM 2:08

TOM LAWLER, CLERK

MELVIN L. FREEMAN

Plaintiff,

v.

CONNECTICUT VALLEY ARMS INC.,

Defendants.

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Civil Action File No.: 02A96386-4

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**ANSWER AND DEFENSES OF DEFENDANT OF DEFENDANT D.C. 1980 INC.,
f/k/a CONNECTICUT VALLEY ARMS INC., AND MOTION TO TRANSFER**

COMES NOW, Defendant, D.C. 1980 Inc., f/k/a Connecticut Valley Arms Inc., the appropriate Defendant in this case based upon the allegations of Plaintiff's Complaint, as well as Connecticut Valley Arms Inc., not an appropriate defendant and an entity which did not even exist until 2001, (as shown in Exhibit "A" attached hereto and made a part hereof), and without subjecting themselves to the jurisdiction or venue of this Court, but specifically objecting to the same, answer's Plaintiff's Complaint as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim against these Defendants upon which relief can be granted.

SECOND DEFENSE

Defendant D.C. 1980 Inc., is not subject to the jurisdiction of this Honorable Court.

THIRD DEFENSE

Defendant D.C. 1980 Inc., is not subject to the venue of this Honorable Court.

FOURTH DEFENSE

For a fourth separate and distinct defense, Defendants state that any alleged injury or damage sustained by the Plaintiff was a result of Plaintiff's own negligence, unmixed with any alleged negligence on the part of this Defendant, and therefore, Plaintiff is unable to recover any sums whatsoever from these Defendants.

FIFTH DEFENSE

For a fifth separate and distinct defense, though denying negligence in any respect, or liability in any respect, Defendant states that any alleged injury or damage sustained by the Plaintiff was a result of Plaintiff's own negligence, which was greater than or equal to any alleged negligence or conduct on the part of the Defendants, therefore Plaintiff is unable to recover any sums whatsoever from the Defendants.

SIXTH DEFENSE

For a sixth separate and distinct defense, the Defendants state that Plaintiff assumed the risk of any injury or damages by his conduct, had the last clear chance to avoid any such injury or damage, and that any injury or damage sustained by the Plaintiff was therefore the result of Plaintiff's assumption of the risk or failure to exercise reasonable care for his own safety, and therefore Defendant is unable to recover any sum whatsoever from these Defendants.

SEVENTH DEFENSE

Plaintiff's injuries were caused by a misuse, modification or alteration of the muzzleloading firearm at issue, and therefore, Plaintiff is unable to recover any sum whatsoever from this Defendant.

EIGHTH DEFENSE

Though Defendant did not design, manufacturer, or assemble the muzzleloading firearm at issue, nonetheless the design, manufacture, assembly, warranty and labeling of the firearm at issue were in conformity with the generally recognized state of the art at the time of the subject firearm was designed, manufactured, and labeled, and therefore Plaintiff is unable to recover any sum whatsoever from this Defendant.

NINTH DEFENSE

Plaintiffs' claims for punitive damages violate the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendment of the Constitution of the United States in that:

(1) It is a violation of the due process and equal protection clauses of the Fourteenth Amendment of the United States Constitution to impose punitive damages, which are penal in nature, against a civil Defendant upon the Plaintiffs satisfying a burden of proof which is less than the "beyond a reasonable doubt" burden of proof required in criminal cases.

(2) The procedures pursuant to which punitive damages are awarded fail to provide a reasonable limit on the amount of the award against this Defendant which thereby violates the due process clause of the Fourteenth Amendment of the United States Constitution.

(3) The procedures pursuant to which punitive damages are awarded fail to provide specific standards for the amount of the award of punitive damages which thereby violates the due process clause of the Fourteenth Amendment of the United States Constitution.

(4) The procedures pursuant to which punitive damages are awarded result in the imposition of different penalties for the same or similar acts, and thus, violate the equal protection clause of the Fourteenth Amendment of the United States Constitution.

(5) The procedures pursuant to which punitive damages are awarded permit the imposition of punitive damages in excess of the maximum criminal fine for the same or similar conduct, which thereby infringes the due process clause of the Fifth and Fourteenth Amendments and the equal protection clause of the Fourteenth Amendment of the United States Constitution.

(6) The procedures pursuant to which punitive damages are awarded permit the imposition of excessive fines in violation of the Eight Amendment of the United States Constitution.

(7) The due process clause of the Fifth and Fourteenth Amendments precludes the award of punitive damages against this Defendant based merely upon negligent or grossly negligent conduct.

TENTH DEFENSE

Responding to the specific allegations of Plaintiff's Complaint, Defendants pled as follows:

1.

Paragraph one of Plaintiff's Complaint is denied. In further response to paragraph one of Plaintiff's Complaint, Defendants state that the proper name for the Defendant should be D.C. 1980 Inc., f/k/a Connecticut Valley Arms Inc., (hereinafter "Defendant") a Georgia Corporation which does have its principle place of business in Norcross, Gwinnett County Georgia, and not in Doraville, or DeKalb County Georgia. Therefore, jurisdiction and venue is appropriate for this Defendant in Gwinnett County, but not in DeKalb County. In further response, the entity known as Connecticut Valley Arms Inc., at the address in Doraville, DeKalb County Georgia as set forth in paragraph 1, did not even exist until the year 2001. That Defendant has never designed, manufactured, imported, distributed, or sold any muzzleloading rifles or accessories.

Accordingly, in response to Plaintiff's Complaint, that Defendant Connecticut Valley Arms Inc., denies all of the allegations contained in Plaintiff's Complaint in their entirety and moves to dismiss the Complaint against it, as Defendant responds hereafter to Plaintiff's Complaint, the allegations are being responded to on behalf of the appropriate Defendant, D.C.1980 Inc., f/k/a Connecticut Valley Arms Inc, which admits jurisdiction and venue are appropriate in Gwinnett County.

2.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in paragraph 2 of Plaintiffs' Complaint and therefore, can neither admit nor deny same.

3.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in paragraph 3 of Plaintiffs' Complaint and therefore, can neither admit nor deny same.

4.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in paragraph 4 of Plaintiff's Complaint and therefore, can neither admit nor deny same.

5.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in paragraph 5 of Plaintiff's Complaint and therefore, can neither admit nor deny same.

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6.

Paragraph six of Plaintiff's Complaint is denied, in its entirety.

7.

Paragraph seven of Plaintiff's Complaint is denied, in its entirety.

8.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the matter asserted in paragraph 8 of Plaintiff's Complaint and therefore, can neither admit nor deny same.

9.

Upon information and belief the allegations contained in paragraph 9 of Plaintiff's Complaint are denied.

10.

Upon information and belief the allegations contained in paragraph 10 of Plaintiff's Complaint are denied.

11.

The allegations contained in paragraph 11 of Plaintiff's Complaint are denied.

12.

The allegations contained in paragraph 12 of Plaintiff's Complaint including all sub-parts are denied.

13.

In response to paragraph 13 of Plaintiff's Complaint, Defendant shows that no response is required. To the extent that any response is required, Defendant incorporates by reference as if fully set forth herein each response to each other paragraph in Plaintiff's Complaint as well as

any and all defenses set forth herein. In further response, to the extent any liability is alleged or implied by said paragraph against Defendant, same is denied.

14.

The allegations contained in Paragraph 14 of Plaintiffs Complaint are denied as pled. In further response to paragraph 14 of Plaintiffs Complaint, this Defendant admits that while known as Connecticut Valley Arms Inc., it imported, marketed and distributed the Firebolt in-line muzzleloading .50 caliber rifle, with the serial number 61-13-096816-97. This Defendant denies that it designed, manufactured or assembled the subject rifle as alleged in Plaintiff's Complaint.

15.

The allegations contained in Paragraph 15 of Plaintiffs Complaint are denied as pled.

16.

Paragraph 16 of Plaintiff's Complaint is denied.

17.

Paragraph 17 of Plaintiff's Complaint is denied.

18.

Paragraph 18 of Plaintiff's Complaint is denied.

19.

In response to paragraph 19 of Plaintiff's Complaint, Defendant shows that no response is required. To the extent that any response is required, Defendant incorporates by reference as if fully set forth herein each response to each other paragraph in Plaintiff's Complaint as well as any and all defenses set forth herein. In further response, to the extent any liability is alleged or implied by said paragraph against Defendant, same is denied.

20.

Paragraph 20 of Plaintiff's Complaint is denied.

21.

Paragraph 21 of Plaintiff's Complaint is denied.

22.

Paragraph 22 of Plaintiff's Complaint is denied.

23.

Paragraph 23 of Plaintiff's Complaint is denied.

24.

In response to paragraph 24 of Plaintiff's Complaint, Defendant shows that no response is required. To the extent that any response is required, Defendant incorporates by reference as if fully set forth herein each response to each other paragraph in Plaintiff's Complaint as well as any and all defenses set forth herein. In further response, to the extent any liability is alleged or implied by said paragraph against Defendant, same is denied.

25.

Paragraph 25 of Plaintiff's Complaint is generally admitted.

26.

The allegations contained in paragraph 26 of Plaintiff's Complaint are denied as pled.

27.

The allegations contained in paragraph 27 of Plaintiff's Complaint are denied as pled.

28.

The allegations contained in paragraph 28 of Plaintiff's Complaint are denied as pled.

29.

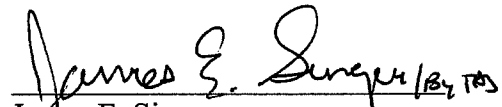
The allegations contained in paragraph 29 of Plaintiff's Complaint are denied as pled.

30.

The allegations contained in paragraph 30 of Plaintiff's Complaint are denied as pled.

WHEREFORE, having fully answered Plaintiff's Complaint, the DeKalb County entity known as Connecticut Valley Arms Inc., moves that the same be dismissed in its entirety. The Defendant D.C.1980 Inc., f/k/a Connecticut Valley Arms Inc., moves that venue be transferred to Gwinnett County, that Judgment be entered in favor of this Defendant against the Plaintiff, for a jury trial by 12 persons on all triable issues, for all costs to be cast against Plaintiff, and for such other and further relief as the Court deems just and proper.

This ____ day of November 2002.


James E. Singer
Georgia State Bar No. 649028
By Tim Burson with express consent
Georgia State Bar No. 097414
Attorney for Defendants

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STATE COURT OF
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