

IN THE CIRCUIT COURT OF LITTLE RIVER COUNTY, ARKANSAS

CORY HODGE

PLAINTIFF

vs.

No. CIV-2000-27

CONNECTICUT VALLEY ARMS,  
WAL-MART STORES, INC.,  
DIKAR, S. COOP. LTDA and  
GENE SEARS SUPPLY COMPANY

DEFENDANTS

**PLAINTIFF'S ORIGINAL COMPLAINT**

COMES NOW Cory Hodge and for his Original Complaint against Connecticut Valley Arms, Wal-Mart Stores, Inc., Dikar, S. Coop. LTDA and Gene Sears Supply Company would show unto the Court as follows:

I.

Plaintiff, Cory Hodge, is a resident of Little River County, Arkansas.

II.

Defendant, Connecticut Valley Arms, is a foreign corporation authorized to do business in the State of Arkansas and conducting business in the State of Arkansas. Its principal place of business is located at 5988 Peachtree Corners East, Norcross, Georgia 30071. This Defendant may be served with process through its registered agent for service in the State of Arkansas, The Corporation Company, 425 West Capitol Avenue, Suite 1700, Little Rock, Arkansas 72201.

Defendant, Wal-Mart Stores, Inc., is a Delaware corporation with its principal place of business located in the State of Arkansas. This Defendant may be served with process through its registered agent for service, Robert K. Rhoads, 702 South West 8<sup>th</sup> Street, Bentonville, Arkansas 72716.

Defendant, Dikar, S. Coop. LTDA, is a foreign corporation with its principal place of

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ON 9th DAY May 2000  
AT 9:00 O'CLOCK A M  
Deanna M Bishop  
Deputy

business located at Urarte Kallea, 26 Poligono Industrial San Lorenzo, 20570 Bergara, Spain. Said Defendant conducts business in the State of Arkansas and may be served with process through the Arkansas Secretary of State.

Defendant, Gene Sears Supply Company, is a foreign corporation authorized to do business in the State of Arkansas, with its principal place of business located in El Reno, Oklahoma. Defendant may be served with process through its registered agent for service, Gene Sears, South Sheppard Road, RR 2, El Reno, Oklahoma 73036.

### III.

Plaintiff is, and at all times hereinafter mentioned, a resident of the State of Arkansas. The occurrence in question took place in Little River County, Arkansas. Jurisdiction and venue are therefore proper in this Court.

### IV.

On or about July 12, 1997, Plaintiff was severely injured while using an in-line muzzle loader .50 caliber rifle manufactured and sold by the Defendants herein. At the time and place, the rifle was being used in a reasonably foreseeable manner by Plaintiff when it exploded while being fired. The rifle in question was designed, manufactured, marketed and distributed by Defendants. The rifle in question bears the serial number of 61-13-10001A-95.

As a direct and proximate result of the explosion which occurred while the rifle was being fired, Plaintiff suffered severe injuries to his right eye and ear.

### V.

At all times material herein, Defendants Connecticut Valley Arms, Wal-Mart Stores, Inc.,

Dikar, S.Coop. LTDA and Gene Sears Supply Company were engaged in the design, testing, manufacture, assembly, sale and/or distribution of in-line muzzle loading firearms, including the rifle in question.

#### VI.

Prior to July 12, 1997, Defendants Connecticut Valley Arms, Wal-Mart Stores, Inc., Dikar, S.Coop. LTDA and Gene Sears Supply Company designed, tested, manufactured, assembled and/or sold the rifle in question in a manner so as to render same unreasonably dangerous as designed and manufactured, taking into consideration the utility of the product and the risk involved in its use. Such design, testing, manufacture, assembly, sale and distribution were producing and proximate causes of the occurrence in question and the injuries suffered by Plaintiff. As a result of the foregoing, Defendants are strictly liable to Plaintiff for his damages as set forth herein.

#### VII.

Prior to July 12, 1997, Defendants Connecticut Valley Arms, Wal-Mart Stores, Inc., Dikar, S.Coop. LTDA and Gene Sears Supply Company failed to warn users of the type of rifle involved of defects and hazardous characteristics, and failed to provide adequate warnings and instructions as to the proper and safe use of said rifle. The failure to so advise, warn or otherwise instruct potential users of the characteristics rendered the rifle in question unreasonably dangerous as marketed. Such failure was a proximate cause of the occurrence in question and the injuries suffered by Plaintiff. Defendants are therefore strictly liable to Plaintiff for his damages as set forth herein.

#### VIII.

Plaintiff would show that the rifle in question supplied by Defendants was unfit for the

ordinary purposes for which it was used and that Defendants therefore breached their implied warranty of merchantability. Such breach was a proximate cause of the occurrence in question and the resulting injuries to Plaintiff.

#### IX.

Plaintiff would show that Defendants were negligent in one or more of the following respects:

1. In failing to design the rifle in question so that it would not explode when used as reasonably foreseen and intended;
2. In failing to provide a barrel which would withstand the internal pressure caused by the firing of the rifle without exploding;
3. In failing to adequately test the integrity of the rifle in question;
4. In failing to take reasonable and timely steps to inform the public of known problems with the rifle in question or initiate any corrective action plans; and
5. In failing to produce and market a rifle which would perform as intended without exploding.

Each of these acts and omissions of negligence was a proximate cause of the occurrence in question and the resulting injuries to Plaintiff.

#### X.

As a direct and proximate result of the injuries to Plaintiff, which are permanent and disabling in nature, Plaintiff is entitled to recover damages for reasonable and necessary medical expenses in the past and in the future, lost wages in the past and in the future, physical pain and


mental anguish in the past and in the future, as well as disfigurement.

XI.

Plaintiff would show that Defendants were grossly negligent in connection with the design, manufacture, marketing and distribution of the rifle in question. Specifically, Defendants had adequate information long before July 12, 1997, on which to take corrective action measures and warn purchasers of the rifle, including Plaintiff, of known safety problems with the rifle in question. The Defendants' failure to adequately and timely warn of the unreasonably dangerous nature of the product in question amounts to conscious disregard of the rights and safety of other, including Plaintiff, and should give rise to an award of exemplary damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be summoned to appear and answer, and that upon final trial Plaintiff have judgment against Defendants, jointly and severally, for his damages set forth hereinabove; an award of exemplary damages; prejudgment and post-judgment interest as provided by law; costs of suit; and such other and further relief to which Plaintiff may be justly entitled.

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