

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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MARK W. KOHN, JR., ALEX R. KOHN,  
and MEGAN E. KOHN,

Plaintiffs,

and

MEDICAL ASSOCIATES HEALTH PLAN, INC.  
d/b/a MEDICAL ASSOCIATES HEALTH PLANS

Case No. 07-C-0112-C

Involuntary Plaintiff,

vs.

BLACKPOWDER PRODUCTS, INC.  
d/b/a CONNECTICUT VALLEY ARMS, INC.,

ABC INSURANCE COMPANY,

CABELA'S RETAIL, INC., and

DEF INSURANCE COMPANY

Defendants.

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**JOINT PRELIMINARY PRETRIAL CONFERENCE REPORT**

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Pursuant to F.R.C.P. 26(f) and the order of the Court, the parties to the above-captioned matter met telephonically on March 9, 2007, the plaintiffs by Christopher D. Stombaugh and Matthew C. Allen; the involuntary plaintiff by Stephen C. Krumpe; Defendant Blackpowder Products, Inc., by Thomas Gonzalez and James E. Singer; and Defendant Cabela's Retail, Inc., by Michael J. Coyle. Pursuant to agreements reached by counsel, the parties submit the following joint preliminary pretrial conference report:

**A. PROPOSED DISCOVERY PLAN**

The parties jointly propose the following discovery schedule:

1. **Deadline to answer for parties who have not yet answered the Complaint:** April 6, 2007
2. **Deadline for all parties to provide mandatory Rule 26 disclosures:** May 7, 2007
3. **Deadline for amendment of pleadings, if any:** July 9, 2007
4. **Deadline for Plaintiffs to disclose expert witnesses:** September 7, 2007
5. **Deadline for Defendants to disclose expert witnesses:** November 7, 2007
6. **Deadline for filing dispositive motions, if any:** January 7, 2008
7. **Trial date:** no sooner than March 10, 2008
8. **Other discovery matters:** The parties do not at this time anticipate any issues with electronic discovery or matters of privilege, but will raise such issues by motion in the future, if necessary. The parties do not at this time request any changes in the limitations on discovery imposed by F.R.C.P. 26 or by local rules.

**B. ADDITIONAL INFORMATION REQUESTED BY THE COURT**

The parties jointly address the following issues identified by the Court:

**1. Nature of the Case**

This is a products liability case that arose out of Plaintiff Mark W. Kohn, Jr.'s purchase and use of a Blackpowder Products, Inc., muzzle-loading rifle. Plaintiff purchased the rifle at a Cabela's retail store on November 29, 2004. On November 30, 2004, Plaintiff Kohn loaded the rifle for the first time, and it exploded on discharge, causing him personal injuries. Plaintiff has asserted claims of strict product liability and negligence against Blackpowder Products, Inc., and Cabela's, as well as breach of warranty against Blackpowder Products, Inc. Plaintiff's minor children have asserted

claims for the loss of society and companionship of their father, and Medical Associates Health Plan, Inc., has been named as an involuntary plaintiff based on medical expense payments that it has made on Plaintiff's behalf.

**2. Names of related cases**

None known at this time.

**3. Material factual and legal issues to be resolved at trial**

With respect to liability, the issues will be the nature and extent of liability of the defendants under the legal theories set forth above, the nature and extent of any contributory negligence on the part of Plaintiff Kohn, and the apportionment of liability between the parties. The nature and extent of Plaintiffs' damages also will be at issue.

**4. Possibility of simplifying issues**

In the interest of simplifying the issues for trial, the parties are amenable to the elimination of claims or defenses to the extent warranted by future discovery.

**5. Possibility of obtaining admissions of fact, documents, and stipulations to avoid unnecessary proof**

The parties are amenable to such procedures to the extent warranted by future discovery.

**6. Necessity for advance rulings on admissibility of evidence**

The parties do not anticipate the need for an advance ruling on the admissibility of evidence at this time, but they will raise the issue by motion if future discovery so warrants.

**7. Need to limit testimony under F.R.E. 702**

The parties do not anticipate the need to limit testimony under F.R.E. 702 at this time, but they will raise the issue by motion in the future, if necessary.

**8. New parties to be added**

The parties do not anticipate adding any additional parties at this time.

**9. Amendments to the pleadings**

In its answer to the Complaint, Blackpowder Products, Inc., indicated that it is not d/b/a Connecticut Valley Arms. In addition, Plaintiffs will substitute the real identity of the defendants' liability insurance carriers for the fictitiously-named carriers originally identified in the Complaint. No other amendments to the pleadings are anticipated at this time.

**10. Estimated length of trial**

3-4 days.

**11. Settlement discussions**

The parties have entered into preliminary discussions regarding settlement, but no formal negotiation has taken place to date. The parties are amenable to the use of alternative dispute resolution in this case.


**12. Other matters that should be taken into account**

None contemplated by the parties at this time.

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Dated this 15<sup>th</sup> day of March, 2007.

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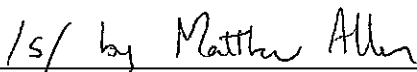
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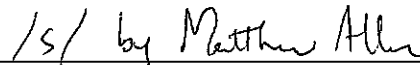
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