

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ABINGDON DIVISION

CHARLES A. SMITH, SR.,	)	
	)	
Plaintiff,	)	
	)	CIVIL ACTION
v.	)	NO. 1:08CV00046
	)	
D.C. 1980, INC.; D.C. 1980, INC. f/k/a	)	
CONNECTICUT VALLEY ARMS, INC.;	)	
BLACKPOWDER PRODUCTS, INC.;	)	
CONNECTICUT VALLEY ARMS, INC.;	)	
and DIKAR S. COOP. LTDA.,	)	
	)	
Defendants.	)	

**MOTION TO DISMISS FOR LACK OF IN PERSONAM JURISDICTION**

Blackpowder Products, Inc. (“BPI”), appearing specially, hereby moves the Court to dismiss the Complaint filed against it pursuant to Rule 12(b)(2), Fed. R. Civ. P., upon the grounds that the Court lacks personal jurisdiction over BPI for the following reasons:

1. In this products liability action, the plaintiff alleges generally that BPI is a foreign corporation doing business in the Commonwealth of Virginia. (Compl., Count I, ¶ 4). Plaintiff further alleges that all of the Defendants acted individually, and/or jointly and collectively, in the design, manufacture, distribution, and sale of the gun and its various component parts. (Compl., Count II, ¶ 4).

2. BPI was not involved in the design, manufacture, or sale of the gun or component parts at issue. The gun alleged to been involved in the plaintiff’s claim was sold in 1996. BPI was not formed as an entity until 1998 and did not transact any business until 1999.

3. BPI has not committed any tortuous act within or without the Commonwealth of Virginia, transacted any business within Virginia, or committed any act or omission that would allow a Virginia court to assume personal jurisdiction over it. Accordingly, the exercise of jurisdiction is not permissible under Virginia's long arm statute and the Due Process clause of the U.S. Constitution, and this Court is without personal jurisdiction over BPI.

WHEREFORE, Blackpowder Products, Inc. moves the Court to dismiss the Complaint against it, quash service upon it, and for its costs expended.

BLACKPOWDER PRODUCTS, INC.

By Counsel

s/ W. Bradford Stallard  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 15, 2009, the foregoing Motion was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties, if any, will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

s/ W. Bradford Stallard