

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

Connecticut Valley Arms, Inc. (“CVA”), 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 CVA, for the following reasons:

1. In this products liability action, the plaintiff alleges generally that CVA 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. CVA 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. CVA was not formed as an entity until 2001.

3. CVA has not committed any tortuous act within or without the Commonwealth of Virginia, transacted any business within the Commonwealth of Virginia, or committed any act or made any 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 CVA.

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

CONNECTICUT VALLEY ARMS, 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