

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS

AUG 12 2004

JAMES W. McCORMACK, CLERK
By: _____

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION**

**HERBERT SULLINS and TAMMY SULLINS,
His Wife**

PLAINTIFFS

V.

NO. 4 - 04 - CV - 792 GH

**CONNECTICUT VALLEY ARMS, INC. and
HODGDON POWDER COMPANY, INC.**

DEFENDANTS

COMPLAINT

Plaintiffs, for their complaint, state:

This case assigned to District Judge Howard
and to Magistrate Judge Carneau

1. Plaintiffs are citizens and residents of Monroe County, Arkansas.
2. Defendant Connecticut Valley Arms, Inc. is a corporation organized under the laws of the state of Georgia with its principal place of business in Georgia.
3. Defendant Hodgdon Powder Company, Inc. is a corporation organized under the laws of the state of Missouri with its principal place of business in Missouri.
4. Both defendants are authorized to do business and are doing business in Arkansas.
5. The events complained of herein occurred in the Eastern District of Arkansas.
6. The amount in controversy, exclusive of interest and costs, exceeds \$75,000.00.
7. On or about January 5, 2002, plaintiff Herbert Sullins was deer hunting. He was using a .50 caliber muzzle loading gun manufactured and distributed by Connecticut Valley Arms, Inc. (CVA) He was also using a propellant called Pyrodex which was manufactured and distributed defendant Hodgdon Powder Company, Inc. (Hodgdon)

8. After plaintiff Herbert Sullins completed his hunt, it was necessary to unload the muzzle loader. To do so, plaintiff Herbert Sullins fire the muzzleloader into the air. When he did so, the muzzleloader exploded, causing severe personal injuries to plaintiff Herbert Sullins.

COUNT I - STRICT LIABILITY

9. The muzzle loader which plaintiff Herbert Sullins was using at the time he was injured was manufactured, distributed and supplied by defendant CVA. CVA was engaged in the business of manufacturing and distributing muzzle loaders.
10. The muzzle loader was supplied by CVA in a defective condition which rendered it unreasonably dangerous.
11. The defective condition of the muzzle loader was the proximate cause of plaintiff Herbert Sullins' damages.
12. Defendant Hodgdon manufactured, supplied and distributed the Pyrodex which plaintiff was using at the time of his injury. Defendant Hodgdon was in the business of doing so.
13. The Pyrodex supplied by defendant Hodgdon was in a defective condition which rendered it unreasonably dangerous.
14. The defective condition of the Pyrodex was a proximate cause of plaintiff Herbert Sullins' injuries.

COUNT II - NEGLIGENCE

15. The muzzleloader manufactured and supplied by defendant CVA was constructed with metal which CVA knew or should have known would explode when fired.

In fact, CVA recalled its muzzle loaders in 1997 because barrels on the muzzle loaders exploded when fired.

16. Defendant CVA was negligent in manufacturing and distributing a muzzle loader which had a barrel which was susceptible to explode when it was fired.
Defendant CVA was negligent in failing to adequately advertise and notify purchasers and/or users of its muzzle loaders of the defect in the muzzle loaders.
17. Plaintiff Herbert Sullins was injured as a proximate result of defendant CVA's negligence.
18. Defendant CVA has examined the muzzle loader at issue in this case. Defendant CVA contends that the explosion of the muzzle loader was not the result of any defect in the muzzle loader. Instead, CVA contends that the explosion of the muzzle loader was the result of the use of "smokeless" gun powder.
19. CVA recommends the use of Pyrodex in its muzzle loaders. Plaintiff purchased a container which purported to be, and was labeled to be, Pyrodex, which was manufactured by Hodgdon. If, in fact, the container which plaintiff purchased and which was labeled Pyrodex did not contain Pyrodex, but contained smokeless gun powder, defendant Hodgdon was negligent in placing smokeless powder in a container labeled Pyrodex.
20. Plaintiff Herbert Sullins' injuries were proximately caused by the negligence of defendant Hodgdon.
21. As a proximate result of the negligence and fault of defendants, plaintiff Herbert Sullins had incurred medical expenses and will do so in the future, has lost wages

and will do so in the future, has lost earning capacity, has scars and disfigurement, has sustained a permanent injury, and has suffered pain and mental anguish in the past and will do so in the future.

22. As a proximate result of defendants' negligence, plaintiff Tammy Sullins has lost the consortium of her husband.

23. Plaintiffs demand a trial by jury.

Wherefore, plaintiffs pray judgment against defendants, jointly and severally, in an amount in excess of \$75,000.00, for their costs and all other proper relief.

Respectfully submitted,

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Roana