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Utahns Sue Over Injuries From Faulty Guns

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BY DAWN HOUSE
 THE SALT LAKE TRIBUNE

Erik Zenger lost consciousness for only a few minutes when his black powder gun misfired on a Utah County shooting range, burying a 3-inch steel spring bolt in his cheekbone. He remembers reassuring his sobbing brother after a bystander announced that he couldn't find a pulse.

"It's gonna be OK," Zenger said. "I'm still alive."

Zenger, 34, is suing a gun manufacturer and the American Fork retail store where he bought his CVA ProHunter Black Powder Rifle, charging he was not told the weapon had been recalled long before he purchased it.

A 19-year-old Payson man has filed a similar suit in Provo's 4th District Court, charging that Wal-Mart failed to notify him when the manufacturer recalled the same type of muzzleloader.

There is no national agency or organization either man could have consulted to find out if a rifle or handgun had been recalled. Firearms are specifically exempted from the Consumer Product Safety Commission, said agency spokesman Ken Jiles, and no other federal agency is empowered to gather information on safety hazards of weapons.

Neither the National Rifle Association nor the National Sports Shooting Foundation tracks such information or has lists of gun recalls. Consumers must rely on retail stores and manufacturers to determine if weapons have malfunctioned or injured anyone.

"And that has been the most frustrating thing of all," said Zenger, a real estate agent who lives in Orem.

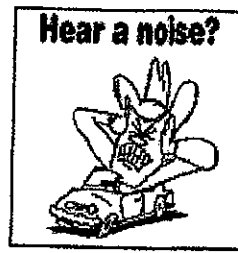
In August 1997, Connecticut Valley Arms issued a voluntary recall of all In-Line rifle models with serial numbers ending in 95 or 96. If you have a model with these numbers, according to the firm's Web site, <http://www.cva.com>, call 770-449-4687 from 6:30 a.m. to 2:30 p.m. MDT, for a replacement barrel.

Two years after the recall, Sam's Club, a subsidiary of Wal-Mart, resold the black powder rifle to A.F. Gun in Utah County is this the American Fork store mentioned above? Neither store had any posting or warning that the gun was defective or that it had been recalled, said Zenger's Salt Lake City attorney, Colin King.

Bill Wertz, spokesman for Wal-Mart and Sam's Club, said he could not comment on specifics.

"In general, Wal-Mart often has indemnification agreements with manufacturers so that if a product is found to be defective, we are not responsible for something that we did not manufacture," he said.

On Nov. 4, 2001, Erik and Michael Zenger were target practicing



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-- carefully cleaning the rifle after each firing -- when the weapon misfired, the two men charge.

Michael Zenger, who was standing next to his brother when the weapon misfired, was hit in the face with several pieces of shrapnel.

Erik Zenger said he remembers feeling something hot hit his cheek when the end bolt flew into his face. X-rays show the bolt completely buried in his face, resting near his ear. He has undergone two reconstructive surgeries, and is scheduled for two more, he said. He suffers constant headaches.

"I like to think I'm tough, but I feel uncomfortable around any kind of rifle now," said Erik, who sports a large, jagged scar from the steel spring that had been attached to the bolt mechanism. He has not regained control of some muscles in the right side of his face, which is apparent when he smiles.

"I'm lucky though," he said. "I could have easily lost one or both of my eyes."

Alan Marvin tells a similar story.

His father purchased black powder rifles for him and his older brother from Wal-Mart's Provo store in December 1996. Last year five years later, the weapon misfired, propelling the end bolt mechanism into Marvin's face. He charges that he has incurred medical expenses, suffered great pain and has permanent disfigurement.

"It's been a horrible ordeal for Alan and his older brother who was standing next to him when the gun malfunctioned," said Provo attorney Robert L. Jeffs. "Alan will have to have more surgeries to rebuild his cheekbone, and he'll have permanent nerve damage to the one side of his face."