

IN THE DISTRICT COURT OF PAWNEE COUNTY
STATE OF OKLAHOMA

JOSHUA HAGA,)
)
 Plaintiff,)
)
 v.)
)
 BLACKPOWDER PRODUCTS, INC.,)
 a Corporation, a/k/a CONNECTICUT)
 VALLEY ARMS; and DIKAR S. COOP.,)
 LTDA., a Foreign Business Organization,)
)
 Defendants.)

CASE NO. CS-09-128
Attorneys' Lien Claimed

FILED
In the District Court
PAWNEE COUNTY, OKLAHOMA
APR 20 2009
JANET DALLAS, Court Clerk
BY _____ DEPUTY

PETITION

Comes now Plaintiff JOSHUA HAGA, and states as follows:

JURISDICTIONAL FACTS

1. Plaintiff JOSHUA HAGA ("HAGA") was at all times pertinent hereto a citizen and residents of Pawnee County, state of Oklahoma.
2. Defendant BLACKPOWER PRODUCTS, INC., a/k/a as CONNECTICUT VALLEY ARMS ("BPI-CVA"), was at all times pertinent hereto a Georgia corporation engaged in the business of designing, developing, importing, marketing, distributing and selling firearms and related products, including but not limited to muzzleloader rifles in general and the CVA MagHunter model muzzleloader rifle product line in particular. Its principal place of business was at all times pertinent hereto in Norcross, Georgia.
3. Defendant BPI-CVA was at all times pertinent hereto the corporate successor in interest to CONNECTICUT VALLEY ARMS, INC., a/k/a CVA ("CVA"), and

it conducted its business under the trade name Connecticut Valley Arms.

4. Defendant DIKAR, S. COOP. LTDA ("DIKAR"), was at all times pertinent hereto, a foreign business organization located in the country of SPAIN, and it was engaged in the business of designing, developing, manufacturing, and exporting firearms, including the CVA MagHunter muzzleloader rifle product line as well as other muzzle-loader rifle product lines, to its wholly owned subsidiary Defendant BPI / CVA.

5. Defendant DIKAR did at all times pertinent hereto own 100% of the stock in Defendant BPI-CVA.

6. The amount in controversy does not exceed \$74,999.00.

PRODUCT DESIGN, MANUFACTURE, AND FAILURE

7. The CVA MagHunter model muzzleloader rifle product line, including but not limited to the CVA MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02, was designed, developed, and manufactured by Defendant DIKAR in Spain.

8. Defendant DIKAR designed, developed, and manufactured the CVA MagHunter model muzzleloader rifle product line, as well as other muzzleloader rifle product lines, in Spain with the intent and for the purpose of exporting such products to its wholly owned subsidiary Defendant BPI-CVA in the United States of America for distribution, marketing, and sale in interstate commerce.

9. Defendant DIKAR exported the CVA MagHunter model muzzleloader rifle product line, including but not limited to CVA MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02, from Spain to its wholly owned subsidiary Defendant BPI-CVA in the United States of America for distribution, marketing, and sale in interstate

commerce.

10. Defendant BPI-CVA contributed to and participated, to some degree and extent, in the design and development of the CVA MagHunter model muzzleloader rifle product line, including but not limited to the CVA MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02.

11. Defendant BPI-CVA imported the CVA MagHunter model muzzleloader rifle product line, including the CVA MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02, as well as other CVA muzzleloader rifle product lines, from Defendant DIKAR, and then it distributed, marketed, and sold such products in interstate commerce in the United States of America.

12. Defendants BPI-CVA and DIKAR collaborated and worked together with the common intent and purpose of designing, developing, and manufacturing the CVA MagHunter model muzzleloader rifle product line, including the CVA MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02, and then marketing, distributing, and selling such products in interstate commerce, with the knowledge and intent that such products would be purchased and used by consumers like Plaintiff JOSHUA HAGA in numerous states including Oklahoma.

13. Plaintiff JOSHUA HAGA purchased the CVA MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02 from Walmart, and he had fired it without incident approximately 60 times prior to April 27, 2007.

14. Subsequently, on April 27, 2007, in Pawnee County, Oklahoma, Plaintiff properly loaded the CVA MagHunter, bearing serial no. 61-13-07712-02, with a charge of

one hundred (100) grains of Triple 7 powder and a PowerBelt .45 caliber sabot-bullet in accordance and compliance with the written instructions and recommendations contained in Defendants' product manual, as he had done numerous times before. Then, when Plaintiff fired the CVA MagHunter muzzleloader rifle, the barrel catastrophically failed and ruptured in a violent explosion.

15. The force of the explosion caused the CVA MagHunter muzzleloader rifle's barrel to rupture, and debris, particles, and shards of metal struck Plaintiff in the left arm and face. This sudden and powerful explosion of the muzzleloader rifle barrel inflicted painful and permanently disabling and disfiguring blast injuries to Plaintiff JOSHUA HAGA's left arm and face.

STRICT LIABILITY OF DEFENDANT BPI- CVA

16. The MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02 was defectively designed, manufactured, and marketed, and was unreasonably dangerous for its intended use by foreseeable users, including Plaintiff.

17. Plaintiff used the MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02, for the purpose intended by and in a manner reasonably foreseeable by the Defendants.

18. Defendant BPI- CVA, is strictly liable to Plaintiff JOSHUA HAGA because its MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02, was defective and unreasonably dangerous due to design, material, manufacturing, and marketing defects and deficiencies, including but not limited to deficient material specifications and materials, defective mechanical configuration, defective manufacturing specifications and

processes, deficient product testing procedures, and deficient inspection and quality control specifications and procedures.

19. Defendant BPI-CVA, is also strictly liable to Plaintiff because it failed to provide adequate, proper, and reasonable product information, instructions, and warnings regarding the loading, maintenance, and use of the MagHunter muzzleloader rifle.

20. Defendant BPI-CVA is strictly liable to Plaintiff because the aforementioned defects and deficiencies directly caused the incident of April 27, 2007.

21. The MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02 was in a defective and unreasonably dangerous condition at the time Defendant BPI / CVA placed it into interstate commerce.

22. The MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02, reached and was received by Plaintiff JOSHUA HAGA without substantial change in the defective and unreasonably dangerous condition that it was in, when Defendants placed it in interstate commerce.

STRICT LIABILITY OF DEFENDANT DIKAR

23. The MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02 was defectively designed and manufactured by Defendant DIKAR , and was unreasonably dangerous for its intended use by foreseeable users, including Plaintiff.

24. Plaintiff used the MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02, for the purpose intended by and in a manner reasonably foreseeable by Defendant DIKAR.

25. Defendant DIKAR is strictly liable to Plaintiff because its MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02, was defective and unreasonably dangerous due to design, material and manufacturing defects and deficiencies, including but not limited to deficient material specifications and materials, defective mechanical configuration, defective manufacturing specifications and processes, deficient product testing procedures, and deficient inspection and quality control specifications and procedures.

26. Defendant BPI-CVA is strictly liable to Plaintiff because the aforementioned defects and deficiencies directly caused the incident of April 27, 2007.

27. The MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02 was in a defective and unreasonably dangerous condition at the time Defendant DIKAR exported it to its subsidiary Defendant BPI-CVA.

28. The MagHunter muzzleloader rifle, bearing serial no. 61-13-077172-02, reached and was received by Plaintiff JOSHUA HAGA without substantial change in the defective and unreasonably dangerous condition that it was in, when Defendant DIKAR exported it to its subsidiary Defendant BPI-CVA.

NEGLIGENCE

29. Defendant BPI-CVA and DIKAR failed to exercise ordinary care, were negligent, and are jointly and severally liable to Plaintiff because:

- A. They failed to exercise ordinary care to provide adequate and proper mechanical design, material(s), and manufacturing specifications and processes for the breech plug, barrel, and related component parts of the MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02;

- B. They failed to perform or require performance of adequate, proper, and reasonable quality control procedures, including inspection and testing, for the MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02;
- C. They failed to exercise ordinary care to provide adequate, proper, and reasonable product information, instructions, and warnings regarding the maintenance and use of the MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02, even though they had, or should have had the the expertise, knowledge, and means to do so; and
- D. They failed to exercise ordinary care in failing to correct, modify, and revise the design (mechanical configuration, materials specifications, manufacturing processes, and or quality control procedures) of the MagHunter model muzzleloader rifle product line, that they knew from a series of numerous, previous, and similar incidents, had explosively failed when put to its intended, recommended, and foreseeable use by consumers like Plaintiff.

30. The incident of April 27, 2007, wherein Plaintiff JOSHUA HAGAWAS was injured would not have occurred, except for the negligence of Defendants BPI-CVA and DIKAR in the design, manufacture, marketing, and distribution of the MagHunter muzzleloader rifle bearing serial no. 61-13-077172-02, which product was under the control and management of Defendant DIKAR at the time it manufactured, and exported to its wholly owned subsidiary BPI-CVA for marketing, distribution, and sale in the United States, and which product was under the control and management of Defendant BPI-CVA from the time it was imported from Defendant DIKAR for marketing, distribution, and sale in the United States.

CAUSATION

- 31. The incident described of April 27, 2007, was directly caused by:
 - A. The defective and unreasonably dangerous CVA MagHunter muzzle-loader rifle bearing serial no. 61-13-077172-02, which was designed, developed, manufactured, marketed, and placed into interstate commerce

in the United States through the collaborative, combined, and common actions of Defendants DIKAR and BPI-CVA;

- B. The negligence of Defendants DIKAR and BPI / CVA in designing, developing, manufacturing, marketing, and distributing into interstate commerce, the MagHunter model muzzleloader rifle product line that they knew or should have known was defective and unreasonably dangerous because of their knowledge of numerous, previous, and similar incidents wherein such products had explosively failed when put to their intended, recommended, and foreseeable use; and
- C. The negligence of Defendants DIKAR and BPI-CVA in failing to correct, modify, and revise the design of a muzzleloader rifle product line, that they knew or should have known was defective and unreasonably dangerous because of their knowledge of numerous, previous, and similar incidents wherein such products had explosively failed when put to their intended, recommended, and foreseeable use.

PLAINTIFF JOSHUA HAGA's DAMAGES

32. At the time of the incident of April 27, 2007, Plaintiff JOSHUA HAGA was a healthy able bodied 29 year old man with a reasonable life expectancy of 50 years and a reasonable work life expectancy of at least 36 years.

33. As a direct result of the incident of April 27, 2007, he sustained serious, painful, debilitating, and disfiguring injuries to his left arm and face. He has undergone one surgical procedure to his left arm.

34. He has incurred medical bills in the approximate amount of \$4,000.00, and he is left with permanent injury, disability, and scarring to his left arm. He has sustained compensable damages and losses as follows:

- A. Past medical expenses in the approximate amount of \$4,000.00;
- B. Future medical expenses in an undetermined amount;
- C. Loss of earnings and loss of earning capacity of about \$400.00;

- D. Physical disability, past and future;
- E. Permanent deformity and disfigurement;
- F. Physical pain, past and future;
- G. Mental pain, past and future;
- H. Loss of quality of life.

35. WHEREFORE, Plaintiff JOSHUA HAGA prays for judgment against Defendants BPI-CVA and DIKAR, jointly and severally, and in amounts that will fully and fairly compensate each of them for their injuries, losses, and damages. And, Plaintiff prays for judgment against the Defendants BPI-CVA and DIKAR for taxable costs, prejudgment and post judgment interest, and all other relief to which they may be entitled, with total amount not to exceed \$74,500.00.

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