

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
TOLEDO DIVISION

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|------------------------------|---|--|
| JENNIFER PLANK-GREER |) | |
| 940 E. Dixon Street |) | |
| Kokomo, IN 46901 |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CASE NO. 3:13-CV-01266 |
| |) | |
| |) | JUDGE James G. Carr |
| H2TARGETS, LLC |) | |
| 41930 Kittle Road |) | |
| Celina, OH 45822 |) | |
| |) | |
| TIMOTHY JAMES HOMAN, II |) | Christopher G. Stevenson (24689-49) |
| d/b/a H2TARGETS, LLC |) | Wilson Kehoe Winingham LLC |
| P.O. Box 70 |) | 2859 N. Meridian Street |
| Montezuma, OH 45866 |) | Indianapolis, IN 46208 |
| |) | Phone: (317) 920-6400 |
| BIG BUCK'S FIREARMS & |) | Fax: (317) 920-6405 |
| SPORTING GOODS, INC. |) | E-Mail: cstevenson@wkw.com |
| 2484 State Road 127 |) | |
| St. Henry, OH 45883 |) | |
| |) | |
| |) | Jay Harris (0017237) |
| TANNERITE SPORTS LLC |) | Harris· Rent· Torzewski, LPA |
| 36366 Valley Road |) | Two Maritime Plaza, Third Floor |
| Pleasant Hill, OR 97455, |) | Toledo, OH 43604 |
| |) | Phone: (419) 243-1105 |
| DANIEL J. TANNER, d/b/a |) | Fax: (419) 243-8953 |
| TANNERITE EXPLOSIVES |) | E-Mail: toledojustice@bex.net |
| 36366 Valley Road |) | |
| Pleasant Hill, OR 97455, and |) | |
| |) | |
| JAMES W. YANEY, JR. |) | Counsel for Plaintiff |
| 7190 Townshipline Rd. |) | |
| Celina, OH 45822 |) | |
| |) | |
| Defendants. |) | |

FIRST AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Jennifer Plank-Greer, by counsel, asserts the following in support of her Complaint for Damages against the Defendants, H2Targets LLC, Timothy James Homan, II d/b/a H2Targets LLC, Big Buck's Firearms & Sporting Goods, Inc., Tannerite Sports LLC, Daniel J. Tanner d/b/a Tannerite Explosives and James W. Yaney, Jr.

I. PARTIES AND JURISDICTION

1. Plaintiff, Jennifer Plank-Greer is a citizen of the State of Indiana, having her primary residence in Kokomo, Indiana.

2. Defendant H2Targets, LLC is incorporated under the laws of the State of Ohio with its principal place of business located in Celina, Ohio and with all members of H2Targets, LLC having citizenship in the State of Ohio.

3. Defendant Timothy James Homan, II d/b/a H2Targets, LLC (hereinafter H2Targets LLC and Timothy James Homan, II d/b/a H2Targets referred to collectively as "H2Targets") is a citizen of the State of Ohio with his principal place of business located in Montezuma, Ohio.

4. Defendant Big Buck's Gun & Sporting Goods, Inc. ("Big Buck's") is incorporated under the laws of the State of Ohio with its principal place located in St. Henry, Ohio and having citizenship in the State of Ohio.

5. Defendant Tannerite Sports LLC is incorporated under the laws of the State of Oregon with its principal place of business located in Pleasant Hill, Oregon and with all members of Tannerite Sports LLC having citizenship in the State of Oregon.

6. Defendant Daniel J. Tanner, d/b/a Tannerite Explosives (hereinafter Tannerite Sports LLC and Daniel Tanner, d/b/a Tannerite Explosives referred to collectively as "Tannerite

Explosives”) is a citizen of the State of Oregon with the principal place of business of Tannerite Explosives in Pleasant Hill, Oregon.

7. Defendant James W. Yaney, Jr. (“Mr. Yaney”) is a citizen of the State of Ohio, residing in Celina, Ohio, Mercer County.

8. This Court has jurisdiction pursuant to 28 U.S.C. § 1332, in that there is complete diversity of citizenship and the amount in controversy is in excess of \$75,000.

II. SUMMARY OF FACTS

9. On May 6, 2012, Jennifer Plank-Greer was a social guest invited onto Mr. Yaney’s property at 7190 Township Line Road, Celina, Ohio.

10. The social gathering on Mr. Yaney’s property included shooting guns at various objects in Mr. Yaney’s backyard, including a cargo/box truck and a refrigerator.

11. Jennifer Plank-Greer observed others shooting guns on Mr. Yaney’s property, but did not participate in shooting the guns herself and had little to no prior experience around guns.

12. Tannerite is a binary explosive compound composed of ammonium nitrate as an oxidizer and aluminum powder as a catalyst.

13. H2Targets is a binary explosive compound utilizing an oxidizer and catalyst mixture.

14. On May 6, 2012, Tannerite and/or H2Targets exploding compound was placed in an old appliance, believed to be a refrigerator, as part of the shooting activities occurring on Mr. Yaney’s property.

15. Tannerite is designed, manufactured, marketed and sold by Tannerite Explosives.

16. H2Targets exploding rifle targets are designed manufactured, marketed and sold by H2Targets LLC and/or Timothy James Homan, II d/b/a H2Targets.

17. Big Buck's in the course of its business, sold distributed, prepared, blended, packaged, labeled, or otherwise participated in placing H2Targets exploding compound and/or Tannerite into the stream of commerce.

18. H2Targets places its oxidizer compound and catalyst in separate containers, and then packages these components together with instructions to combine the compounds to create a high-explosive.

19. Tannerite Explosives places its oxidizer compound of ammonium nitrate and its catalyst of aluminum powder in separate containers, and then packages these components together with instructions to combine the compounds to create a high-explosive.

20. H2Targets exploding compound and Tannerite detonate at supersonic velocity when pierced by a pointed high-velocity center-fire rifle bullet.

21. When detonated inside a metal object, such as a refrigerator, H2Targets exploding compound and Tannerite create a bomb similar to an improvised explosive device (IED) that can send fragments of metal hundreds of yards in multiple directions at supersonic velocities.

22. Prior to May 6, 2012, H2Targets and Tannerite Explosives knew, or should have known, that their exploding rifle targets were commonly used by consumers to create bombs similar in nature to IEDs that have the potential to severely injure individuals exposed to the supersonic exploding fragments.

23. The H2Target exploding compound and/or Tannerite detonated inside the metal object (refrigerator) on Mr. Yaney's property on May 6, 2012 exploded, creating metal

fragments that flew into the observers and severely injured Jennifer Plank-Greer's right hand. (See photos below showing detonation which injured Plaintiff).



24. As a result of the H2Targets exploding compound and/or Tannerite explosion, Jennifer Plank-Geer, had her right hand nearly severed at the wrist, and has had multiple surgeries to reattach her hand with attempts made for her to regain some hand function.

COUNT I – H2TARGETS PRODUCT LIABILITY FOR DEFECTIVE DESIGN

25. The Plaintiff reasserts, realleges, and incorporates paragraphs one (1) through twenty-four (24) herein by reference.

26. The H2Targets exploding rifle target used on Mr. Yaney's property on May 6, 2012 was defective in design at the time it left the control of H2Targets as the foreseeable risks associated with its design exceeded the benefits associated with its use.

27. The nature and magnitude of the risks associated with the reasonably foreseeable use of H2Targets exploding compound include the creation of high-velocity explosions that can send shrapnel and fragments in multiple directions that are likely to cause severe injuries.

28. Alternative target strike/shot indicators designs, which serve a similar purpose but do not pose the same risks as that of H2Targets exploding compound, were feasible and available at the time the H2Targets exploding compound left the control of H2Targets.

29. As a direct and proximate result of the foreseeable use of the H2Target exploding compound designed, manufactured, marketed and sold by H2Targets, Plaintiff Jennifer Plank-Geer suffered severe disfiguring injuries, endured considerable pain and mental anguish, incurred substantial hospital and medical bills, lost wages, and will continue to suffer such damages in the future.

COUNT II – H2TARGETS PRODUCT LIABILITY FOR INADEQUATE INSTRUCTION AND WARNING

30. The Plaintiff reasserts, realleges, and incorporates paragraphs one (1) through twenty-nine (29) herein by reference.

31. The H2Targets exploding compound used on Mr. Yaney's property on May 6, 2012 was defective due to inadequate warning or instruction at the time it left the control of H2Targets.

32. In light of the nature and magnitude of harm that can be caused by the foreseeable use of H2Targets exploding compound, H2Targets failed to provide a warning and instruction that a manufacturer exercising reasonable care should have provided concerning H2Targets exploding compound's potential to create high-velocity explosions that can send shrapnel and fragments in multiple directions that are likely to cause severe injuries.

33. As a direct and proximate result of the lack of instruction and warning associated with the foreseeable use of the H2Targets exploding compound designed, manufactured, marketed and sold by H2Targets, Plaintiff Jennifer Plank-Greer suffered severe disfiguring injuries, endured considerable pain and mental anguish, incurred substantial hospital and medical bills, lost wages, and will continue to suffer such damages in the future.

COUNT III – TANNERITE EXPLOSIVES PRODUCT LIABILITY FOR DEFECTIVE DESIGN

34. The Plaintiff reasserts, realleges, and incorporates paragraphs one (1) through thirty-three (33) herein by reference.

35. The Tannerite used on Mr. Yaney's property on May 6, 2012 was defective in design at the time it left the control of Tannerite Explosives as the foreseeable risks associated with its design exceeded the benefits associated with its use.

36. The nature and magnitude of the risks associated with the reasonably foreseeable use of Tannerite include the creation of high-velocity explosions that can send shrapnel and fragments in multiple directions that are likely to cause severe injuries.

37. Alternative target strike/shot indicators designs, which serve a similar purpose but do not pose the same risks as that of Tannerite, were feasible and available at the time the Tannerite left the control of Tannerite Explosives.

38. As a direct and proximate result of the foreseeable use of the Tannerite designed, manufactured, marketed and sold by Tannerite Explosives, Plaintiff Jennifer Plank-Greer suffered severe disfiguring injuries, endured considerable pain and mental anguish, incurred substantial hospital and medical bills, lost wages, and will continue to suffer such damages in the future.

COUNT IV – TANNERITE EXPLOSIVES PRODUCT LIABILITY FOR INADEQUATE INSTRUCTION AND WARNING

39. The Plaintiff reasserts, realleges, and incorporates paragraphs one (1) through thirty-eight (38) herein by reference.

40. The Tannerite used on Mr. Yaney's property on May 6, 2012 was defective due to inadequate warning or instruction at the time it left the control of Tannerite Explosives.

41. In light of the nature and magnitude of harm that can be caused by the foreseeable use of Tannerite, Tannerite Explosives failed to provide a warning and instruction that a manufacturer exercising reasonable care should have provided concerning Tannerite's potential

to create high-velocity explosions that can send shrapnel and fragments in multiple directions that are likely to cause severe injuries.

42. As a direct and proximate result of the lack of instruction and warning associated with the foreseeable use of the Tannerite designed, manufactured, marketed and sold by Tannerite Explosives, Plaintiff Jennifer Plank-Greer suffered severe disfiguring injuries, endured considerable pain and mental anguish, incurred substantial hospital and medical bills, lost wages, and will continue to suffer such damages in the future.

COUNT V – BIG BUCK’S GUN & SPORTING GOODS, INC.’S NEGLIGENCE AS A SUPPLIER OF H2TARGETS AND/OR TANNERITE

43. The Plaintiff reasserts, realleges, and incorporates paragraphs one (1) through forty-two (42) herein by reference.

44. Big Buck’s knew, or reasonably should have known, of H2Targets exploding compound’s and/or Tannerite’s potential to create high-velocity explosions that can send shrapnel and fragments in multiple directions and cause severe injuries.

45. In light of the nature and magnitude of harm that can be caused by the foreseeable use of H2Targets exploding compound and/or Tannerite, Big Bucks’ failed to provide a warning and instruction that a supplier exercising reasonable care should have provided concerning these products’ potential to create high-velocity explosions that can send shrapnel and fragments in multiple directions that are likely to cause severe injuries.

46. The H2Targets exploding compound and/or Tannerite did not conform, when it left Big Buck’s control, to representations made by Big Buck’s, and the failure to conform to the representations were a proximate cause of the injury to Plaintiff.

47. As and direct a proximate result of the negligence of Big Buck's, Plaintiff Jennifer Plank-Greer suffered severe disfiguring injuries, endured considerable pain and mental anguish, incurred substantial hospital and medical bills, lost wages, and will continue to suffer such damages in the future.

COUNT VI – NEGLIGENCE OF JAMES W. YANEY JR.

48. The Plaintiff reasserts, realleges, and incorporates paragraphs one (1) through twenty-six (26) herein by reference.

49. Plaintiff Jennifer Plank-Greer was a social guest invited onto Mr. Yaney's property on May 6, 2012.

50. As a host of social guests on his premises, Mr. Yaney owed Jennifer Plank-Greer a duty to exercise reasonable care to not cause injury to his guests through any activities occurring on the property.

51. As a host of social guests on his premises, Mr. Yaney owed Jennifer Plank-Greer a duty to warn of any dangerous conditions on the property which Mr. Yaney knew, or should have known, could cause harm to his guests.

52. Mr. Yaney was careless and negligent in one or more of the following respects concerning the activities occurring on his premises on May 6, 2012:

- a. Detonated H2Targets and/or Tannerite on his property in a manner which was likely to cause injury to his guests;
- b. Failed to warn Jennifer Plank-Greer of the dangers associated with his use of H2Targets exploding compound and/or Tannerite; and

- c. Failed to use reasonable care in shooting guns at various objects on his property.

53. As and direct a proximate result of the negligence of James W. Yaney, Jr., Plaintiff Jennifer Plank-Greer suffered severe disfiguring injuries, endured considerable pain and mental anguish, incurred substantial hospital and medical bills, lost wages, and will continue to suffer such damages in the future.

WHEREFORE, Plaintiff prays for judgment against the Defendants in an amount which will fully and fairly compensate her for her injuries and damages, for costs of this action, for interest as allowed by law, and for all other just and proper relief in the premises.

DEMAND FOR JURY TRIAL

Plaintiff, Jennifer Plank-Greer, hereby demands a jury trial on all claims so triable in this action.

Respectfully submitted,

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