

# Missouri Lawyers

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## WEEKLY

## Parties settle over exploding rifle

*Muzzleloader was a gift from hunter's wife*



Morry Cole

BY DONNA WALTER

A hunter settled the product liability lawsuit he filed against the maker, importer and seller of a muzzleloader rifle that exploded when he used it. The settlement is confidential.

Toni Bazzell bought her husband, William Bazzell, a CVA Apollo muzzleloader as a gift. Bazzell was deer hunting in Butler County two years ago. When he fired the muzzleloader, it exploded where the breech plug screws into the barrel, according to the lawsuit. The complaint, filed in June 2007 in the U.S. District Court in St. Louis, alleged that the breech plug as well as other parts of the rifle were forceful-

ly thrust out of the rifle's butt end and sides, striking Bazzell in the face.

According to the suit, Bazzell suffered "painful and permanently disabling and disfiguring blast injuries to his head and face, right eye, right ear, and nasal passages and sinuses." A spring from the rifle lodged in Bazzell's skull through his right cheekbone. He suffered injuries to his right hand, which was holding the stock and trigger assembly, and he broke his back and several ribs after falling to the ground from his deer stand.

Bazzell sued Dikar, S. Coop. Ltd., the Spain-based manufacturer; DC 1980, the Dunwoody, Ga., company that designed the rifle Dikar manu-

factured; Sam's Club, which is where Toni Bazzell bought the rifle; and Wal-Mart, which owns Sam's. Bazzell originally sued Blackpowder Products Inc. and Connecticut Valley Arms Inc. but substituted DC 1980 as a defendant in January because that company was the importer and distributor of the rifle at issue in this case.

Bazzell was represented by Morry S. Cole, of Gray, Ritter & Graham in St. Louis.

The suit alleged that all defendants were strictly liable due to the defects in the rifle's design, materials and manufacturing. The companies also failed to provide adequate instructions and warnings about the maintenance and use of the rifle, the lawsuit

alleged. DC 1980, Wal-Mart and Sam's were also liable for marketing defects, according to the suit.

Bazzell also alleged counts of negligence, failure to warn, negligently supplying dangerous instrumentality, loss of spousal consortium and punitive damages.

The plaintiff did not allege a specific amount of compensatory or punitive damages. When the lawsuit was filed, Bazzell's past medical damages hadn't yet been determined, the suit stated.

The parties, with Tom Lang as the mediator, settled their dispute on Aug. 8. They filed their stipulation to dismiss the lawsuit with prejudice on Oct. 14, which was granted Oct. 15.

### Confidential settlement

#### PERSONAL INJURY/PRODUCT LIABILITY

■ **Court:** U.S. District Court of the Eastern District of Missouri

■ **Case Number/Date:** 4:07-cv-1104/Aug. 8, 2008

■ **Judges:** Charles A. Shaw

■ **Caption:** William Bazzell and Toni Bazzell v. Dikar, S. Coop. Ltd., Wal-Mart Stores Inc., Sam's West Inc. and DC 1980 Inc.

■ **Plaintiff's Attorneys:** Morry S. Cole, Gray, Ritter & Graham, St. Louis

■ **Defendant's Attorney:** James E. Singer, Bovis, Kyle & Burch, Atlanta, and David L. Coffman and David A. Fitzpatrick, Lewis, Rice & Fingersh, St. Louis, for Dikar, S. Coop. Ltd. and DC 1980; and James E. Whaley and Edward W. Zeidler II, Brown & James, St. Louis, for Wal-Mart Stores Inc. and Sam's West Inc.