

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

JAMES WILBOURN, individually)
and as representative of all persons)
similarly situated,)
 Plaintiff,)
))
v.))
))
BROWNING ARMS COMPANY,))
))
 Defendant.)

3:17cv143-MPM-JMV

**ORIGINAL COMPLAINT
CLASS ACTION
(JURY TRIAL DEMANDED)**

CLASS ACTION COMPLAINT

COMES NOW Plaintiff James Wilbourn, individually and as representative of all persons similarly situated, and brings this action against Defendant Browning Arms Company (hereinafter “Browning” or “Defendant”).

INTRODUCTION

1. This is a proposed class action brought by Plaintiff on behalf of himself and the below-defined Class against Defendant to obtain damages and injunctive relief arising from and relating to their purchase of Defendant’s firearms coated with Defendant’s Dura-Touch® Armor Coating (“Dura-Touch” or “Dura-Touch Coating”).

2. This class action arises out of Defendant’s application of Dura-Touch to many models of its firearms, including the shotguns owned by Plaintiff and the other class members.

3. According to Defendant, its Dura-Touch Coating is “a unique stock treatment specifically designed to improve the grip and overall feel of a rifle or shotgun while protecting the stock with an armor-like finish.” Defendant touts its Dura-Touch Coating as creating a “very tactile” grip for its firearms, and that it is suitable for use “in all weather conditions and temperature ranges, in addition to being extremely durable.”

4. Despite Defendant’s claims that its firearms coated with Dura-Touch as being “extremely durable,” after several years of use, the Dura-Touch Coating degrades to the point where it became extremely sticky to the touch, which impacts the ability of Plaintiff and the Class Members to use their Browning Arm Company firearm.

5. Defendant’s tortious behavior with respect to its manufacturing, marketing and sale of its firearms with the Dura-Touch Coating has caused Plaintiff and the other Class members to suffer direct financial harm. Plaintiff’s purchases of products not fit for their ordinary and intended use, and performed in accordance with neither the advertisements, marketing materials and/or warranties disseminated by Defendant nor the reasonable expectations of ordinary consumers.

6. Plaintiff asserts claims individually and on behalf of the other members of the proposed Class.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this case under 28 U.S.C. § 1332(d)(2)(A) and (C). This case is a class action, as defined by 28 U.S.C. § 1332(d)(1)(B), and the amount in controversy exceeds \$5,000,000, exclusive of interests and costs. Plaintiff, individually, and those similarly situated, as more particularly set forth below, include citizens of States other than Utah, and Defendant, as more particularly set forth below, is a citizen of Utah.

8. Venue is proper in the Northern District of Mississippi under 28 U.S.C. § 1391(b)(1) and (2). The Defendant is a resident of this District under 28 U.S.C. § 1391(c)(2) in that they are each entities subject to this court's personal district.

9. Venue is also proper in this District because Defendant has marketed, sold or otherwise disseminated, and continues to market, sell or otherwise disseminate its firearms coated with its Dura-Touch® Armor Coating.

PARTIES

10. Plaintiff James Wilbourn is an adult resident of Quitman County, Mississippi.

11. Defendant Browning Arms Company is a Utah company headquartered in Morgan County, Utah. Browning may be served via its registered agent at: Kevin L. Rowe, Esq., 170 South Main Street, Suite 1500, Salt Lake City, Utah 84101.

COMMON FACTUAL ALLEGATIONS

12. Defendant is a preeminent manufacturer and distributor of firearms in the United States, and many of its firearms retail at over a thousand dollars.

13. According to Defendant, its Dura-Touch Coating is “a unique stock treatment specifically designed to improve the grip and overall feel of a rifle or shotgun while protecting the stock with an armor-like finish.”

14. Defendant knows that many purchasers of its firearms, including purchasers of its firearms containing the Dura-Touch Coating, are hunters who will be using its firearms in the outdoors. As such, Defendant touts its Dura-Touch Coating as creating a “very tactile” grip for its firearms, and that it is suitable for use “in all weather conditions and temperature ranges, in addition to being extremely durable.”

15. Contrary to Defendant’s assertions that its Dura-Touch Coating is “extremely durable” and suitable for use in “all weather conditions and temperature ranges,” the Dura-Touch Coating degrades after a few years of use.

16. The Dura-Touch Coating degrades to the point where it becomes extremely sticky to the touch, impacting the firearm’s grip and affecting the ability of Plaintiff and other Class members to use the firearm for its intended purpose.

17. Defendant’s current catalog lists over 25 firearms which come coated with Dura-Touch, including shotguns in its Maxus, A5, Silver, BPS, Gold lines as

well as Rifles in its X-Bolt line.¹

18. Upon information and belief, Defendant has sold firearms coated with Dura-Touch for at least 10 years.

19. Upon information and belief, Defendant is aware of this issue with its Dura-Touch Coating, yet continues to manufacture, sell and distribute firearms coated with Dura-Touch without informing its purchasers that the Dura-Touch Coating will degrade after a few years of use.

20. In order to remove the Dura-Touch Coating, Plaintiff and other members of the Class will have to either pay another company to strip the Dura-Touch Coating from the firearm and “re-dip” those parts in another coating, or to purchase replacement parts for their Browning Shotguns at significant cost to Plaintiff and Class members.

FACTS SPECIFIC TO PLAINTIFF

21. Plaintiff owns two Browning Silver shotguns and two Browning Maxus shotguns, all four of which have stocks coated in the Dura-Touch Coating (collectively, the “Browning Shotguns”).

22. Plaintiff used his Browning Shotguns to hunt a variety of fowl in the Mississippi outdoors. Plaintiff used his Browning Shotguns in a manner anticipated

¹ <http://www.browning.com/content/dam/browning/support/print-catalogs/2017/2017-browning-catalog-firearms.pdf>

by the Defendant, who claims that its Dura-Touch coating is suitable for “all weather conditions and temperature ranges.”

23. Despite using his Browning Shotguns in the manner anticipated by Browning, Plaintiff noticed in Fall of 2015 that his Browning Shotguns were becoming extremely sticky.

24. Over the next year, the problem worsened to the point where Plaintiff’s ability to grip his Browning Shotguns was affected because the sticky forearms and stocks were uncomfortable to hold.

25. Plaintiff called his local Browning dealer to inform them that he was having problems with his Browning Shotguns, and an employee of the dealer said, “Let me guess, they’re sticky, right?”

26. Plaintiff shipped one of his Browning Shotguns—a Browning Silver—through his local dealer to Browning in Fall of 2016, and Browning has neither repaired nor returned his firearm.

CLASS ACTION ALLEGATIONS

27. Plaintiff brings this class action pursuant to Federal Rules of Civil Procedure Rule 23. The requirements of Fed. R. Civ. P. 23(a), (b)(3) and (c)(4) are met with respect to the classes defined as:

all United States Persons who have purchased any Browning firearm containing the Dura-Touch Coating from January 1, 2007 through the filing date of this complaint.

Excluded from the Classes are: (a) any Judge or Magistrate presiding over this action and members of their families; (b) Browning Arms Company, its affiliates, employees, officers and directors, persons or persons that distribute or sell Browning Arms Company firearms or other products; (c) all persons who properly execute and file a timely request for exclusion from the Classes; and (d) the attorneys of record in this case.

28. *Numerosity*: The Classes are composed of thousands of persons geographically dispersed, the joinder of whom in one action is impractical.

29. *Commonality*: Defendant's practices and omissions were applied uniformly to all members of the Class, so that the questions of law and fact are common to all members of the Class. Questions of law and fact common to the Classes exist as to all members of the Classes and predominate over any questions affecting only individual members of the Classes. These common legal and factual issues include, but are not limited to, the following:

- a. Whether Defendant's design, manufacturing, advertising and/or sale of its firearms coated with Dura-Touch was negligent;
- b. Whether Defendant represented and warranted that its firearms coated with Dura-Touch complied with their label descriptions and/or were fit for their ordinary and intended use, and performed in accordance with neither the advertisements, marketing materials and/or warranties disseminated by Defendant nor the reasonable expectations of ordinary consumers;
- c. Whether Defendant knew or should have known that its Dura-Touch Coating was defective and/or did not conform with its advertisements

or label descriptions;

- d. Whether Defendant breached its implied warranties to Plaintiff and other Class members with respect to its firearms which were coated with Dura-Touch;
- e. Whether, as a result of Defendant's representations, Plaintiff and the other Class members have suffered damages, and, if so, the appropriate measure of those damages to which they are entitled;
- f. Whether, as a result of Defendant's conduct, Defendant was unjustly enriched;
- g. Whether Plaintiff and Class members are entitled to punitive damages; and
- h. Whether, as a result of Defendant's misconduct, Plaintiff and the other Class members are entitled to equitable and/or other relief, and, if so, the nature of such relief.

30. *Typicality*: Plaintiff's claims are typical of the claims of the other Class members. Plaintiff and each of the other Class members have been injured by the same wrongful practices and actions of the Defendant. Plaintiff's claims arise from the same practices and course of conduct that give rise to the other Class members' claims and are based on the same legal theories.

31. *Adequate Representation*: Plaintiff will fully and adequately assert and protect the interests of the other Class members. In addition, Plaintiff has retained class counsel who are experienced and qualified in prosecuting class action cases similar to this one. Neither Plaintiff nor its attorneys has any interests contrary to or conflicting with other Class members' interests.

32. *Predominance and Superiority*: This class action is appropriate for certification because questions of law and fact common to the members of the Class predominate over questions affecting only individual members, and a Class action is superior to other available methods for the fair and efficient adjudication of this controversy, since individual joinder of all members of the Class is impracticable. Should individual Class members be required to bring separate actions, this Court and Courts throughout the country would be confronted with a multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing unitary adjudication, economies of scale and comprehensive supervision by a single Court.

33. Defendants have also acted or failed to act on grounds generally applicable to the class as a whole, thereby making certification under Fed. R. Civ. P. 23(b)(2) appropriate.

CAUSES OF ACTION

COUNT I – Negligence and/or Wantonness

34. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth

herein.

35. Defendant had a duty to Plaintiff and to members of the Class to design, manufacture and sell products with conform to their intended and advertised purposes.

36. Defendant breached this duty by failing to exercise ordinary and reasonable care in the manufacture and sale of its firearms coated with Dura-Touch.

37. The negligence or wantonness of Defendant, its agents, servants and/or employees, includes the foregoing as well as the following acts and/or omissions:

- a. Designing, manufacturing, distributing, marketing and/or selling firearms coated with Dura-Touch without adequately testing its long-term performance for its ordinary, intended and advertised purposes; and
- b. Negligently or wantonly concealing information concerning the defective nature of the Dura-Touch Coating.

38. Plaintiff and the Class members have been damaged because the Dura-Touch performance does not perform its ordinary and intended purposes.

39. Plaintiff and the Class members' damages were proximately caused by Defendant's negligence.

40. Plaintiff and the Class members have also been damaged as a direct and proximate result of the negligence, carelessness, recklessness, willfulness and/or

wantonness of Defendants as aforesaid.

41. As Defendant's conduct was grossly negligent, reckless, willful, wanton, intentional, fraudulent or the like, Plaintiff and the class members are entitled to an award of punitive damages.

COUNT II – Breach of Implied Warranties

42. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

43. At all times relevant to, there was a duty imposed by law which requires a manufacturer's or seller's product to be reasonably fit for the purposes for which such products are used and that the product be acceptable in trade for the product description.

44. Defendant breached this duty by selling firearms coated with Defendant's Dura-Touch coating which were not merchantable.

45. Defendant was notified that its product was not merchantable within a reasonable time after the defect manifested itself to Plaintiff and the members of the Class.

46. As a result of the non-merchantability of Defendant's firearms coated with Dura-Touch, Plaintiff and other Class members sustained a loss or damages.

COUNT III – Fraudulent Misrepresentation

47. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

48. Defendant falsely and fraudulently represented to Plaintiff, the Class members, and/or the consuming public in general that Defendant's products would be free from defects and fit for their customary and normal use.

49. Defendant made false and fraudulent representations about its Dura-Touch Coating, including representations regarding its durability and suitability for use in all weather conditions and temperature ranges, to Plaintiff, Class members and/or their agents or predecessors, as set forth in this complaint.

50. When said representations were made by Defendant, upon information and belief, they knew those representations to be false and they willfully, wantonly and recklessly disregarded whether the representations were true.

51. These representations were made by Defendant with the intent of defrauding and deceiving the Plaintiff, Class members and/or the consuming public, all of which evinced reckless and/or willful indifference to the Plaintiff and Class members.

52. At the time of the aforesaid representations, Plaintiff and the Class members were unaware of the falsity of said representations and reasonably believed

them to be true.

53. Defendant knew and was aware, or should have been aware, that Defendant's Dura-Touch Coating was defective and not fit for its customary and normal use.

54. Defendant brought its products containing its Dura-Touch Coating to market and acted fraudulently, wantonly and/or maliciously to the detriment of Plaintiff and the Class members.

55. In reliance upon these representations, Plaintiff and Class members purchased Defendant's firearms coated in Dura-Touch.

56. As a direct and proximate result of Defendant's negligent misrepresentations, Plaintiff and Class members have been damaged as set forth in this complaint.

57. As a direct and proximate result of the foregoing, Plaintiff and the Class members suffered, and continue to suffer, financial damage and injury, and are entitled to all damages, including punitive damages, in addition to costs, interest and fees, including attorneys' fees, as allowed by law.

COUNT IV – Negligent Misrepresentation

58. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

59. Defendant made representations about its Dura-Touch Coating, including representations regarding its durability and suitability for use in all weather conditions and temperature ranges, to Plaintiff, Class members and/or their agents or predecessors, as set forth in this complaint.

60. Those representations were false.

61. When Defendant made these representations, it knew they were untrue or it had a reckless disregard for whether they were true, or should have known they were untrue.

62. Defendant knew that Plaintiff, Class members and/or their agents or predecessors were relying on its representations.

63. In reliance upon these representations, Plaintiff and Class members purchased Defendant's firearms coated in Dura-Touch.

64. As a direct and proximate result of Defendant's negligent misrepresentations, Plaintiff and Class members have been damaged as set forth in this complaint.

65. As a direct and proximate result of the foregoing, Plaintiff and the Class members suffered, and continue to suffer, financial damage and injury, and are entitled to all damages, including punitive damages, in addition to costs, interest and fees, including attorneys' fees, as allowed by law.

COUNT V – Fraudulent Omission/Concealment

66. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

67. Defendant knew or should have known that its Dura-Touch Coating was defective in design, was not fit for their ordinary and intended use, and performed in accordance with neither the advertisements, marketing materials and/or warranties disseminated by Defendant nor the reasonable expectations of ordinary consumers.

68. Defendant fraudulently concealed from and/or intentionally failed to disclose to Plaintiff and the Class members that the Dura-Touch Coating is defective.

69. Defendant had exclusive knowledge of the defective nature of the Dura-Touch Coating at the time of sale. The defect is latent and not something that Plaintiff or Class members, in the exercise of reasonable diligence, could have discovered independently prior to purchase.

70. Defendant had the capacity to, and did, deceive Plaintiff and Class members into believing they were purchasing firearms coated with Dura-Touch which were free from defects.

71. Upon information and belief, Defendant undertook active and ongoing steps to conceal the defect in its Dura-Touch Coating. Plaintiff is aware of nothing

in Defendant's advertising, publicity or marketing materials that disclosed the truth about the defect, despite Defendant's awareness of the problem.

72. The facts concealed and/or not disclosed by Defendant to Plaintiff and the Class members are material facts in that a reasonable person would have considered them important in deciding whether to purchase (or to pay the same price for) a firearm coated with Dura-Touch.

73. Defendant intentionally concealed and/or failed to disclose material factors for the purpose of inducing Plaintiff and the Class members to act thereon.

74. Plaintiff and the Class justifiably acted or relied upon the concealed and/or non-disclosed facts to their detriment, as evidenced by their purchase of Defendant's firearms coated with Dura-Touch.

75. Plaintiff and Class members suffered a loss of money in an amount to be proven at trial as a result of Defendant's fraudulent concealment and nondisclosure because: (a) they would not have purchased Defendant's firearms coated with the defective Dura-Touch Coating on the same terms if the true facts concerning the Dura-Touch Coating's defect had been known; (b) they paid a premium due to the fact that they paid a price premium due to the fact that the Defendant's firearms, including the Dura-Touch Coating would be free from defects; and (c) the Dura-Touch Coating did not perform as promised. Plaintiff would have also initiated this suit earlier had the defect been disclosed to him.

76. By reason of the foregoing, Plaintiff and the Class members suffered, and continue to suffer, financial damage and injury.

COUNT VI – Unjust Enrichment

77. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

78. Plaintiff and Class members conferred a benefit on Defendant when they purchased firearms from Defendant.

79. Defendant has been unjustly enriched in retaining the revenues derived from Class members' purchases of Defendant's firearms, the retention of which under these circumstances is unjust and inequitable because Defendant's Dura-Touch Coating is defective in design, was not fit for its ordinary and intended use, and performed in accordance with neither the advertisements, marketing materials and/or warranties disseminated by Defendants nor the reasonable expectations of ordinary consumers and caused the Plaintiff and Class members to lose money as a result thereof.

80. Plaintiff and Class members suffered a loss of money as a result of Defendant's unjust enrichment because: (a) they would not have purchased Defendant's firearms coated in Dura-Touch on the same terms if the true facts concerning the defect in said Dura-Touch had been known; (b) they paid a price

premium due to the fact that the Defendant's firearms, including the Dura-Touch Coating would be free from defects; and (c) the Dura-Touch Coating did not perform as promised.

81. Because Defendant's retention of the non-gratuitous benefit conferred on them by Plaintiff and Class members is unjust and inequitable, Defendant must pay restitution to Plaintiff and the Class members for their unjust enrichment, as ordered by the Court.

82. Plaintiff and the Class members are entitled to restitution of, disgorgement of, and/or the imposition of the constructive trust upon, all profits, benefits, and other compensation obtained by the Defendant from their deceptive, misleading and unlawful conduct.

COUNT VII – Declaratory Relief 28 U.S.C. § 2201

83. Plaintiff, on behalf of himself and all others similarly situated, adopt and incorporate by reference all foregoing allegations as though fully set forth herein.

84. Defendant has acted or refused to act on grounds that apply generally to the Class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the Class as a whole within the meaning of Fed. R. Civ. P. 23(b)(2). Plaintiff seeks a ruling that :

a. Defendant's Dura-Touch Coating has a latent defect in that the coating

- degrades after several years of ordinary and intended use of Defendant's firearms;
- b. Said defect is not detectable until after any warranty provided by Defendant has expired;
 - c. Defendant will cease the sale or distribution of firearms or other products coated with its Dura-Touch Coating until such time as said defect has been corrected; and
 - d. Defendant will recall and/or repair all such firearms containing the Dura-Touch Coating which it sold or distributed since January 1, 2007.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, pray for a judgment against Defendant as follows:

- a. For an order certifying the Class, pursuant to Fed. R. Civ. Pr. Rule 23, appointing Plaintiff as representative of the Class, and appointing the law firms representing Plaintiff as Class Counsel;
- b. For compensatory damages sustained by Plaintiff and the Class;
- c. For equitable and/or injunctive relief for the Class;
- d. For payment of costs of suit herein incurred;
- e. For both pre-judgment and post-judgment interest on any amounts awarded;
- f. For punitive damages;
- g. For payment of reasonable attorneys' fees and expert fees as may be

allowable under applicable law; and

- h. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Plaintiff, on behalf of himself and on behalf of the Class members, hereby demands a trial by jury as to all issues so triable.

Respectfully Submitted,

/s/ Erik Heninger (MSB No. 100951)
ERIK HENINGER
Attorney for Plaintiff

Of Counsel:

HENINGER, GARRISON, DAVIS, LLC
2224 1st Avenue North
P. O. Box 11310 (35202)
Birmingham, Alabama 35203
205-326-3336 (phone)
205-326-3332 (facsimile)
erik@hgdlawfirm.com

***Motions for Pro Hac Vice will be filed for the following additional
counsel for Plaintiff and Class:***

W. Lewis Garrison, Mark Ekonen, Travis Lynch, Anna Carroll

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS James Wilbourn</p> <p>(b) County of Residence of First Listed Plaintiff <u>Clarke County, MS</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) Heninger Garrison Davis, LLC 2224 1st Ave North, Birmingham, AL 35203 205-326-3336</p>	<p>DEFENDANTS Browning Arms Company</p> <p>County of Residence of First Listed Defendant <u>Salt Lake County, UT</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in one Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in one Box for Plaintiff and One Box for Defendant)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width:10%;">DEF <input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;">PTF <input type="checkbox"/> 4</td> <td style="width:10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

IV. NATURE OF SUIT (Place an "X" in One Box Only)					
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<p>PERSONAL INJURY</p> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <p>Habeas Corpus:</p> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION


Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)(2)(A) and (C)

Brief description of cause:
misrepresentation: failure to exercise reasonable care in the mfr. & sale of firearms coated with Dura-Touch

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 5,000,001.00 CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 08/08/2017 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT# 1462004 AMOUNT \$400 APPLYING IFP _____ JUDGE Mills MAG. JUDGE Virden