

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

John Shea  
17909 Landseer Road  
Cleveland, Ohio 44119

Plaintiff  
and

Timothy D. Leahy  
16505 Dartmouth – Apt. C  
Cleveland, Ohio 44111

Plaintiff  
v.

Army Joint Munitions Command  
Rock Island Arsenal  
Rock Island, Illinois 61299-5000

Defendant

and

Lake City Army Ammunition Plant  
Lake City Road  
Independence, MO 60450-0330

Defendant

Alliant Techsystems, Inc. (ATK)  
1300 Wilson Boulevard  
Arlington, Virginia 22209

Defendant  
and

JOHN DOES Nos. 1-10, contractors,  
subcontractors and/or independent contractor  
responsible for the manufacture and/or  
distribution of gun cartridges for the U.S.  
Army

Defendants.

CASE NO.

JUDGE

COMPLAINT

(Jury Demand Endorsed Hereon)

Now come Plaintiffs John Shea and Timothy D. Leahy, and for their cause of action state as follows:

### COUNT I

1. Plaintiff John Shea and Plaintiff Timothy Leahy at all times relevant herein were civilians and members of American Legion Post No. 339 in Cleveland, Ohio.

2. Defendant Army Joint Munitions Command operates a nationwide network of installations and facilities where conventional ammunition is produced and stored, including Defendant Lake City Army Ammunition Plant.

3. The operations of the Lake City Army Ammunition Plant are conducted by Defendant Alliant Techsystems (ATK).

4. Defendant John Does Nos. 1-10 are entities who are independent contractors and/or subcontractors responsible for the manufacture and/or supply and/or distribution of ammunition for the U.S. Army and who manufactured and/or supplied and/or distributed what were labelled as blank cartridges to American Legion Post 339 located on Superior Avenue in Cleveland, Ohio. The true names of John Does Nos. 1-10 cannot be determined at this time.

### COUNT II

6. On or about May 6, 2013 in the City of Rittman, Medina County, Plaintiffs, as members of the American Legion Post 339, were participating in graveside honor gun salutes at Ohio Western Reserve National Cemetery.

7. Plaintiffs' M1 Garand rifles blew apart while engaged in an honor salute, causing them to sustain traumatic injuries.

8. Subsequent investigation indicated that the explosion of the rifles resulted due to the

fact they did not contain blank ammunition cartridges.

9. Defendants manufactured and/or distributed and/or packaged and/or supplied American Legion Post 339 with .30 caliber grenade launching cartridges instead of the appropriate M1909 .30 caliber blank cartridges for use in honor salutes.

10. The grenade cartridges generate much greater pressure and are not designed or intended to be fired with a blank firing adapter.

11. The grenade cartridges were mixed with appropriate blank cartridges in a box shipped to American Legion Post 339.

12. Defendants owed a duty of reasonable care to ensure that the cartridges were properly inspected and packed.

13. Defendants' conduct constituted a breach of a duty of care owed to Plaintiffs.

14. Defendants knew or should have known that the cartridges were not appropriate for their intended use and were negligent in supplying them to the American Legion Post.

15. The cartridges did not conform, when they left the control of the supplier, to a representation made by the supplier and that representation and failure to conform to it were a proximate cause of harm to the Plaintiffs.

16. Defendants are strictly liable in tort.

17. As a direct and proximate cause of the negligence and breach of duty of the Defendants, Plaintiffs suffered personal injuries and damages for pain and suffering, anxiety, disability, wage loss, and medical treatment.

18. Plaintiffs' injuries resulted in permanent damage, and they will incur medical expenses and wage loss in the future.

WHEREFORE, Plaintiffs respectfully request judgment in their favor against

Defendants, jointly and severally, in an amount in excess of \$25,000, interest, the costs of this action, and any other damages in law or equity this Court deems appropriate.

Respectfully submitted,

Henderson & Schmidlin Co., L.P.A.

*/s/Timothy McGarry*

Timothy McGarry (0055604)

Celeste M. Manway (0037771)

840 Brainard Road

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Attorney for Plaintiffs

**JURY DEMAND**

Plaintiffs request a trial by jury on all issues in this case.

*/s/Timothy McGarry*

Timothy McGarry (0055604)

Celeste M. Manway (0037771)