

COPY

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TERI SEE and DARREL SEE,
wife and husband,

Plaintiffs,

-vs-

REMINGTON ARMS COMPANY, INC.,
a Delaware corporation,

Defendant.

No. 81-886

DEPOSITION OF STARR BOUDREAU

(Taken as a Material Witness on behalf of Plaintiffs.)

March 2, 1982

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(Taken as a Material Witness on behalf of Plaintiffs.)

BE IT REMEMBERED That, pursuant to notice on
file herein, the deposition of STARR BOUDREAU, a Material
Witness called for examination by Plaintiffs, was taken
before S. Richard Adams, a Notary Public for the State of
Oregon and Official Court Reporter of the Circuit Court of
Oregon, for the County of Clatsop, in the law office of
Ronald L. Miller, 555 Bond Street, Astoria, Oregon,
beginning Tuesday, March 2, 1982, at the hour of 12:07
o'clock p.m.

S. RICHARD ADAMS
COURT REPORTER
P.O. BOX 835
ASTORIA, OREGON 97103

1 APPEARANCES:

2 Bodyfelt, Mount, Stroup & Chamberlain
3 (By Mr. Peter R. Chamberlain), and
4 Mr. Philip L. Nelson, Attorneys for
Plaintiffs;

5 Schwabe, Williamson, Wyatt, Moore &
6 Roberts (By Mr. James D. Huegli),
Attorneys for Defendant.

7 _____

1 Whereupon the following proceedings were had, to-wit:

2 STIPULATION

3 At said time and place, the following stipulation was
4 entered into by counsel present for the respective parties:

5 It is hereby stipulated and agreed by and between the
6 parties hereto, through their respective counsel, that the
7 deposition of STARR BOUDREAU, a Material Witness called for
8 examination by Plaintiffs, may be taken before S. Richard
9 Adams, a Notary Public, at this time and place, on oral
10 interrogatories, direct and cross, to be propounded to the
11 deponent.

12 It is further stipulated that all irregularities as to
13 notice of time and place and manner of taking said deposition
14 are hereby waived, except that each party reserves the right
15 to object at the time of trial to any question or answer,
16 but that objections as to the form of the questions or
17 irresponsiveness of answers are waived unless made at the
18 time of taking said deposition.

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S. RICHARD ADAMS
COURT REPORTER
P.O. BOX 835
ASTORIA, OREGON 97103

1 STARR BOUDREAU, a Material Witness called for
2 examination by Plaintiffs, having been first duly sworn
3 by the Notary, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CHAMBERLAIN:

6 Q Mrs. Boudreau, my name is Pete Chamberlain. I'm the
7 attorney representing Teri See and Darrel See in a law-
8 suit they've brought against Remington Arms Company,
9 and Phil Nelson is also representing the Sees, and Mr.
10 Jim Huegli is here representing Remington Arms. This
11 is our opportunity to ask you some questions about the
12 accident that resulted in Teri See being shot.

13 Have you ever had your deposition taken before?

14 A No.

15 Q Okay. You're under oath, you understand that?

16 A (Nods affirmatively.)

17 Q Although we're in an informal atmosphere, it's just
18 like you were in a court of law, and it's just as
19 important that you tell the truth as you would in a
20 court of law. Okay?

21 A Okay.

22 Q It's also important -- the court reporter here is taking
23 down everything we say and will later type it up into a
24 booklet form which we can use at trial, so it's
25 important that you answer the questions out loud and

1 that you answer in "yeses" and "noes", not "uh-huhs"
2 and "huh-uhs." Okay?

3 A All right.

4 Q If you don't understand any question I ask you, please
5 ask me to restate it. Don't answer a question that you
6 don't understand because that won't do either one of us
7 any good. What we want is truthful information and
8 accurate information, so if you don't understand my
9 question, just stop me and make me restate it until you
10 understand it. Will you do that?

11 A Right.

12 Q Okay. Your husband told us that you were using this
13 Remington 700 rifle for hunting on the day that Teri
14 was injured; is that right?

15 A Yes.

16 Q Had you hunted with it before?

17 A Yes.

18 Q On how many occasions had you used it?

19 A Oh, we go out target practicing every now and then.

20 Q Okay. And if you're going with your husband, is that
21 the rifle you always use?

22 A Well, not really, because there was, you know, a lot of
23 people going and some of them didn't have guns and
24 stuff, so....

25 Q How often would you say you'd used that rifle?

1 A Oh, quite often, you know, target practicing, not just
2 hunting.

3 Q Okay. And you're familiar with what apparently happened
4 here on the day of Teri's accident where the rifle went
5 off because the safety was flipped?

6 A Yes.

7 MR. HUEGLI: Objection to the form of the question.

8 Q When he -- he has to do that for the record. You can
9 still answer the question. You are familiar with that
10 situation; right?

11 A Yes.

12 Q Okay. Had that ever happened to you?

13 A No.

14 Q Had the gun ever either misfired or unexpectedly fired
15 when you were using it?

16 A No.

17 Q Had you ever handled the gun after this accident to
18 see if you could duplicate the firing by flipping the
19 safety?

20 A No, I never tried it myself.

21 Q Were you present when anyone else did?

22 A Yes.

23 Q Who did it in your presence?

24 A The sheriff.

25 Q What was his name, do you remember?

1 A I don't recall.

2 Q Would you -- is it Daniel Laughman?

3 A It could be.

4 Q Is it the sheriff that was investigating this incident?

5 A Yes.

6 Q Was it at your house on that night?

7 A Yes.

8 Q And by "that night" I mean the night that Teri was shot.

9 A Yes.

10 Q Okay. What did he do?

11 A He tried the rifle out the same way that Steve explained

12 to him what happened.

13 Q The bolt was closed or open?

14 A I couldn't tell you for sure.

15 Q Did you see what he was doing?

16 A Yeah, he was just playing with it, you know, opening

17 and closing the bolt.

18 Q And how about was he flipping the safety back and forth?

19 A Yes.

20 Q And did it -- I realize there wasn't a bullet in it at

21 that point, but did it discharge, did you hear the

22 trigger click?

23 A I necessarily didn't hear it, but he said that it --

24 they made a statement that it had gone off that way.

25 Q Who was "they?"

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1 A The sheriff.

2 Q And he was holding the gun at this time?

3 A Yes.

4 Q Okay. As you understood what he was doing, he was

5 trying to repeat what had happened when your husband

6 had been handling the gun when it fired?

7 A Yes.

8 Q Were you present when anyone else performed any tests

9 like that on the gun?

10 A No.

11 Q No?

12 A (Shakes head negatively.)

13 Q Okay. To help out the court reporter, let me finish

14 asking my questions before you start to answer, because

15 he gets backed up if you start to answer as I'm

16 finishing. Okay?

17 A Okay.

18 Q Where were you when Teri was shot?

19 A In the kitchen.

20 Q Is your house laid out such that you could see what was

21 happening or--

22 A I had my back to it.

23 Q Okay. And--

24 A I'd just walked into the house, and Teri -- Steve had

25 walked in and then Teri had walked in, and she was kind

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1 of following me into the kitchen.

2 Q When you walked in were the guns already laying on the

3 chair?

4 A No. Steve was bringing them in.

5 Q He was behind you, then?

6 A Uh-huh.

7 Q So were you on the phone when the shot occurred?

8 A No, I was in the kitchen.

9 Q Okay. What were you doing?

10 A I think I was. We'd just walked in the house.

11 Q Okay.

12 A Can I rephrase myself?

13 Q You bet.

14 A I was on the phone because I--

15 Q You were?

16 A Yeah, because I was talking to the baby-sitter.

17 Q Okay.

18 A I'd walked in and then walked back to the phone.

19 Q Is that phone in the kitchen?

20 A No.

21 Q What room is that in?

22 A It's -- well, our house is real small, it's -- there's

23 just a kitchen and front room, and then it was right on

24 the corner, you know, kind of in between the kitchen

25 and the front room.

1 Q Tell me, if you can, what happened--
2 A It happened two years ago.
3 Q Right, I understand that, and I don't expect you to have
4 perfect recall, but to the extent you do recall, I'd
5 appreciate it.
6 A Because what made me think of it was because I
7 screamed, and the baby -- the person that was watching
8 my daughter asked me what was wrong and I just hung up
9 the phone on her.
10 Q What did you do then?
11 A Well, I went over to see what happened to Teri.
12 Q Uh-huh.
13 A And then Jim McDermott came in, and he called the
14 ambulance.
15 Q Did you stay with Teri, then, until the ambulance
16 arrived?
17 A Yeah.
18 Q Did your husband say anything in that time period?
19 A He was -- just kept telling Teri he was sorry, it was
20 an accident.
21 Q Did he say anything about how it happened at that point?
22 A Yeah. He just said that he pushed the safety off and
23 the gun went off.
24 Q Okay. Did he say anything about having his hand on the
25 trigger?

1 A No.

2 Q In the report filed by the police in this case, they

3 mention that there was an article in a National

4 Rifleman Association magazine about similar occurrences

5 with this Remington 700 rifle. Do you remember any-

6 thing about that?

7 A The sheriff had told us afterwards.

8 Q Okay. Did you ever see that article?

9 A Yeah, after the incident happened.

10 Q Where did you see it?

11 A Jim McDermott brought a magazine up to our house.

12 Q And did he give you the copy to keep or did he take it

13 back?

14 A No, he took it home.

15 Q Do you know what month that magazine was?

16 A No, I don't recall.

17 Q Was it -- is it called "Rifleman" magazine?

18 A Yeah, "American Rifleman" or something like that. NRA

19 puts it out.

20 Q Did you go to the hospital with Teri?

21 A Oh, yes.

22 Q And came back that same night?

23 A Yes.

24 Q You did, I mean?

25 A (Nods affirmatively.)

1 Q Do you recall when your husband purchased the Remington
2 700?

3 A No.

4 Q Do you remember seeing any product literature on it or
5 package inserts, boxes, any written material that might
6 have come with the rifle?

7 A None that I recall.

8 Q A sales receipt, warranties, anything like that?

9 A (Shakes head negatively.) Well, he probably got a
10 sales receipt, but I don't have it now.

11 Q You don't remember seeing any of that in the last couple
12 years around your house?

13 A No.

14 Q Is that the kind of record you probably would not keep?

15 A Yeah.

16 Q Have you talked to anybody about this, anybody who
17 represents Remington Arms about this incident?

18 A No.

19 Q Or any attorneys that represent Remington Arms?

20 A No.

21 Q Do you remember when you gave a statement to an
22 adjuster for Grange Insurance?

23 A Yes.

24 Q Okay. Why don't you take a look at that, take your
25 time and review it, and I want to know if that's your

1 statement.

2 (Document handed to deponent.)

3 Q I've had the document you've been reading marked as
4 deposit exhibit 5. Is that your statement?

5 A Uh-huh.

6 Q Is that done in your handwriting or did someone else
7 prepare that?

8 A Somebody else's.

9 Q Do you know who that was? Is it someone for Grange
10 Insurance?

11 A It must have been.

12 Q And is it -- you had a chance to read the whole thing?

13 A Uh-huh.

14 Q Does it accurately -- is it accurate?

15 A I guess. It must have been more accurate than I can
16 remember now.

17 Q Is there anything in here you would change if you were
18 asked the questions now?

19 A No.

20 Q On page two of your statement it states: "I do not
21 remember seeing any publications regarding defects in
22 this model Remington." Earlier, you were telling me
23 about an article that Jim McDermott brought up to you.

24 A Uh-huh. Well, I go on to say in there I did later,
25 after.

1 Q Okay. So you did see the one article that you told us
2 about?

3 A Uh-huh.

4 MR. CHAMBERLAIN: Okay. Thank you, Mrs. Boudreau.
5 That's all the questions I have.

6 ---

7 CROSS-EXAMINATION

8 BY MR. HUEGLI:

9 Q Mrs. Boudreau, during the day when you folks were deer
10 hunting, was anybody drinking any alcohol?

11 A Everybody probably had a couple beers.

12 Q Okay.

13 A That's all.

14 Q And were you drinking those beers on and off while you
15 were driving around hunting, is that it?

16 A Yeah.

17 Q And what time did you start hunting?

18 A Pretty early during the day. I can't remember exactly.

19 Q Okay. You got done about 5:00 at night?

20 A Yeah.

21 Q Were you drinking the beers during the last couple of
22 hours that you were hunting? Not in the morning, I
23 wouldn't assume, for breakfast.

24 A No. Probably about lunchtime.

25 Q Okay. Between lunchtime and the time you went into your

1 home, about how many beers had your husband had?
2 A Only about two.
3 Q Okay. Did you stop by the store on your way home to
4 buy some more beer after you'd finished hunting?
5 A I can't recall.
6 Q Did he drink about two more beers between the time --
7 two more beers within about 20 minutes from the time
8 the gun went off?
9 A No.
10 Q You're certain of that?
11 A Yes.
12 Q Do you know why he would tell us anything differently?
13 A No. If he can drink two beers in 20 minutes, he's got
14 it made.
15 Q Have you seen Mrs. See during the last year?
16 A No.
17 Q Have you seen her during the last two years?
18 A Yes.
19 Q Have you talked with her -- the last time you talked
20 with her, how was she doing, was she pretty well
21 recovered from this gunshot wound?
22 A Pretty much so the last time I talked to her.
23 Q Did she tell you whether she had any problems at all?
24 Did you discuss it with her, you know, say how are you
25 doing, how is your leg feeling, things of that nature?

1 A No, not really.

2 Q Nothing was said at all?

3 A No.

4 Q Have you ever talked to her about it?

5 A No, because we've been trying to forget about it.

6 Q Has your husband ever had any other accidents with guns

7 where he shot anybody else?

8 A No.

9 Q Has he ever shot himself or you or anybody in your

10 family that you know of?

11 A Yes.

12 Q Who has he shot?

13 A He accidentally shot himself.

14 Q How did that happen?

15 A He was unloading a gun, an automatic, and it went off.

16 Q Okay. And how long ago was that?

17 A Probably about 10 years ago.

18 Q Okay. As soon as the gun went off in your home, do you

19 recall the first thing your husband said?

20 A No, I don't.

21 Q Within -- immediately after the gun went off, when he

22 went over to Mrs. See -- I assume he went right over to

23 her?

24 A (Nods affirmatively.)

25 Q Do you recall the first thing he said?

1 A No. He just asked her if she -- you know, he was
2 sorry and everything.
3 Q Okay.
4 A I can't remember exactly what he said.
5 Q You weren't present when the deputy was testing the gun
6 that you've told us about, you weren't present when he
7 was flipping the bolt?
8 A Yeah, I was standing there.
9 Q Did you watch him?
10 A Yes.
11 Q You've told the other attorney in this deposition that
12 you did not see the trigger click or the gun discharge
13 at that time; is that right?
14 A Right.
15 Q Were you in another part of the house then?
16 A Well, I was just standing there and listening to him
17 talk, you know, and talking to Jim and stuff about
18 Teri, so I know that he was flipping the bolt on and
19 off and everything.
20 Q But you didn't see the accident, if you will,
21 duplicated?
22 A No.
23 Q How long was the deputy in your home?
24 A Oh, I couldn't tell you exactly but I'd say probably 20
25 minutes.

1 Q How long was he testing the gun? In other words, from
2 the time he walked into the door until the time he
3 walked out of the door he wasn't flipping the safety
4 back and forth, was he?

5 A No.

6 Q A couple of minutes?

7 A Probably five to ten minutes. I don't know.

8 Q Well, you've been in this deposition now 15 minutes.
9 Was he flipping the safety back and forth for 15 solid
10 minutes, the deputy?

11 A I don't know. It seems -- when you're sitting here, the
12 time seems slower, and then when something like that
13 happens it seems to go by so fast, so I really couldn't
14 tell you. And, you know, I was sitting out there and
15 it seemed like 24 hours.

16 Q It was close to it.

17 A It was two.

18 Q Has your husband ever been convicted of a crime?

19 A No.

20 Q No?

21 A I don't think that -- they dropped charges on him. It
22 was a mistaken identity.

23 Q When was that?

24 A About 10 years ago.

25 Q You realize you're under oath here today?

1 A Yes.
2 Q And your testimony is that he's never been convicted of
3 a crime? Would you like to change that?
4 A What has he been convicted of?
5 Q Was he convicted of stealing some cedar?
6 A Oh, just recently, yeah.
7 Q Okay. Any others that--
8 A I forgot all about it.
9 Q --you may have forgotten about as well?
10 A No, not that I've ever known of.

11 MR. HUEGLI: Okay. Thank you.

12 MR. CHAMBERLAIN: I have no further questions.
13 Thank you very much, Mrs. Boudreau.

14
15 (DEPOSITION CONCLUDED.)
16
17

18 /s/ Starr Boudreau

19 Signature of Deponent
20 Starr Boudreau
21
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25

1 STATE OF OREGON)
2 County of Clatsop) ss.

3 I, S. Richard Adams, a Notary Public for Oregon,
4 hereby certify that STARR BOUDREAU, a Material Witness called
5 for examination by Plaintiffs, personally appeared before me
6 at the time and place set forth in the caption hereof; that
7 said deponent was by me first duly sworn to tell the truth,
8 the whole truth and nothing but the truth; that at said time
9 and place I reported in machine shorthand all testimony
10 adduced and other oral proceedings had in the foregoing
11 matter; that thereafter my notes were reduced to typewriting
12 by me; and, that the foregoing transcript, pages 1 to 18, both
13 inclusive, contains a full, true and correct record of all
14 such testimony adduced and oral proceedings had, and of the
15 whole thereof, except where specifically directed to be off
16 the record.

17
18 WITNESS MY HAND and Notarial Seal at Astoria,
19 Oregon, this 17th day of March, 1982.

20
21 (SEAL.)

22 /s/ S. Richard Adams
23 Notary Public for Oregon
24 My Commission Expires:
25 November 6, 1982.

S. RICHARD ADAMS
COURT REPORTER
P.O. BOX 835
ASTORIA, OREGON 97103

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S. RICHARD ADAMS
COURT REPORTER
P.O. BOX 835
ASTORIA, OREGON 97103

1) EVID. X-1-

November 6, 1979,
Rt. 1 Box 843
Astoria, Oregon

My name is Stan Boudreau and I live at the above address. I am 27 years old and am married to Stephen Boudreau. We have been married ten years and have two children, Stephanie born nine and Brian age seven. We have lived at the dictated address for three years. On October 27, 1979, my husband myself, Jim McDermitt, Teri Lee and her husband Darrell all went deer hunting together. We left from our house about three o'clock. We hunted until dark (about 5 or 5:30pm) and returned to our house. My ^{son} ~~two~~ ^{children} ~~children~~, Teri Lee's two children my niece Heidi Olson, and her girlfriend Barbara stayed at our house while we were gone. When we returned, they all came out of the house to see if we had any deer. I entered our house first and made a phone call from the phone in the living room. I believe my husband entered after I had been on the phone about 2 minutes. Teri and Jim McDermitt entered the living room after my husband. Teri walked over to the kitchen and I heard the gun go off. I was still on the telephone at the time. My husband had laid the gun down on

a chair in the living room to unload it. I had gone off when he released the safety. The bullet hit Teri in the leg and then went through our kitchen cupboards. The gun was a Remington target rifle. I had used it many times previously for target practice but the gun had never misfired when I used it. For target practice the safety on the rifle is not used. However my husband put on the safety on this day as I was intending to use the gun to hunt. My husband purchased the Remington between two and three years ago from a gun dealer. The gun was new when he purchased it. He owns approximately fifteen guns and has hunted for as long as we have been married. I know of no other occasion that a gun he was using misfired. My husband belongs to the National Rifle Association and we receive their monthly magazine about gun hunting etc. We do not subscribe to any other hunting or gun magazines but we do occasionally purchase an issue. I do not remember seeing any publications regarding defects in this model Remington. I do not believe my husband was aware of any defects

in the gun prior to the accident. According to Jim McDermitt, the "American Rifleman" (published by NRA) had an article about two months ago regarding defects in a Remington rifle. I had been in the house about three minutes before the accident happened. After the gun went off, we called the ambulance and they arrived soon after our call. Teri's husband was just coming in the house when the accident occurred. The children were all coming in the house when this happened. We have a gun cabinet in the house (in the bedroom) where we keep our guns. As far as I know the gun has never been repaired except for "gloss bedding" the barrel which my husband did. He works on all his guns. I have read the above three pages and know that is a correct version of what I know about this accident.

Starr Boudreau

Boudreau
Dr. Patrick - Surgeon
expert - gunsmith.

B's attorney suggest settling with us & then
go against Remington.
NRA -