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5 Attorneys for Plaintiffs

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE DISTRICT OF OREGON

10 TERI SEE and DARREL SEE,)
wife and husband,)
11)
Plaintiffs,) Civil No. 81-886
12)
v.) MOTION TO COMPEL PRODUCTION AND
13) REQUEST FOR ORAL ARGUMENT; AND
REMINGTON ARMS COMPANY, INC.,) AFFIDAVIT OF PETER R. CHAMBERLAIN
14 a Delaware corporation,)
15 Defendant.)

16 Pursuant to FRCP 37(a), plaintiffs move this court for
17 an order requiring defendant to produce the following:

18 1. All documents which relate in anyway to any recall
19 campaigns for defendant's Model 600 rifle.

20 2. All documents relating to all tests performed by
21 defendant on its Model 600 rifle.

22 3. All memoranda, correspondence, reports, letters or other
23 documents generated as part of defendant's design, manufacture, testing
24 and/or modification of the safety mechanisms on defendant's Model 600
25 rifle.

26 4. All memoranda, correspondence, reports, letters or other

Page 1 - MOTION TO COMPEL PRODUCTION AND REQUEST FOR ORAL ARGUMENT; AND
AFFIDAVIT OF PETER R. CHAMBERLAIN

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1 documents generated as a part of defendant's design, manufacture,
2 testing and/or modification of the trigger mechanisms on defendant's
3 Model 600 rifle.

4 5. All manufacturing, trade and governmental standards,
5 codes or regulations with which defendant complied or attempted to
6 comply, whether suggested, voluntary or mandatory in the design,
7 manufacture and sale of the Remington Model 600 rifle.

8 6. All documents relating to all tests performed by the
9 defendant on its Model 700 rifle.

10 Plaintiffs did previously on the 30th day of September,
11 1981, pursuant to FRCP 34, serve a request upon the defendant for
12 the above discovery and inspection. By letter dated February 23, 1982,
13 defendant served upon plaintiffs a written response to the request
14 objecting to the request noted above. Defendant objected to Items 1
15 through 5 above on the basis that the requested documents were
16 irrelevant and immaterial, and that said request was cumbersome and
17 burdensome. Defendant further objected to Item 6 above as being too
18 broad to enable defendant to adequately comply.

19 Plaintiffs' motion is based on the grounds that the requested
20 documents are proper objects of discovery. Although the plaintiffs'
21 complaint alleges damages resulting from a defect in defendant's
22 Model 700 rifle, it is plaintiffs' contention that the defendant's
23 Model 600 has substantially the same history of defects and that there
24 is discoverable material in the documents requested concerning the
25 Model 600 which is relevant and applicable to the alleged defects
26 of the Model 700 rifle.

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1 Additionally, defendant, by its untimely objection to the
2 request for production, has waived any right to object to said re-
3 quest. Defendant, through its counsel, continually assured plaintiffs
4 that efforts were being made to comply with the request to produce.
5 As is more fully set forth in the affidavit of Peter R. Chamberlain
6 attached hereto, there was no indication that plaintiffs' request
7 would be objected to.

8 With respect to Item 6 above, if this court finds that the
9 request as stated is too broad, then these plaintiffs move the court
10 for an order compelling production of any inventory of all the tests
11 performed on the Model 700 rifle, which would enable the plaintiffs
12 to determine the tests, about which they desire further discovery.

13 Plaintiffs request oral argument on this motion.

14 BODYFELT, MOUNT, STROUP & CHAMBERLAIN

15

16 By /s/ Peter R. Chamberlain
17 Peter R. Chamberlain
Of Attorneys for Plaintiffs

1 AFFIDAVIT OF PETER R. CHAMBERLAIN

2 STATE OF OREGON)
3 County of Multnomah)
ss.

4 I, Peter R. Chamberlain, being first duly sworn, depose
5 and say:

6 1. I have personal knowledge of all the facts set forth
7 herein.

8 2. I am one of the attorneys representing the plaintiffs
9 in the captioned matter.

10 3. I make this affidavit in support of plaintiffs' motion
11 to compel production of documents pursuant to FRCP 37(a).

12 4. This action was filed in September of 1981.

13 5. This is an action to recover for personal injuries
14 arising out of the discharge of a Remington Model 700 rifle.

15 6. At the time of service of the summons and complaint on
16 defendant, plaintiffs also served defendant with a request for pro-
17 duction of documents. Defendant's attorney sought, and I stipulated
18 to, a 60-day extension of the time for filing of defendant's answer
19 to December 18, 1981.

20 7. Defendant filed its answer on December 18, 1981.
21 Defendant did not respond to plaintiffs' request for production within
22 the time allowed; and therefore, on December 16, 1981, I wrote
23 defendant's attorney seeking production. Since that time I have re-
24 relatedly been assured that the request had been forwarded to the
25 defendant corporation but, as yet, no documents have been produced.

26 8. Production and inspection of said documents is necessary

Page 4 - AFFIDAVIT OF PETER R. CHAMBERLAIN

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1 for preparation of the case for the plaintiffs.

2 9. I was informed that said documents are in the custody,
3 care and control of the defendant and may constitute or contain evidence
4 relevant to the matters involved in this action.

5 10. On September 30, 1981, I requested defendant's attorney
6 to permit inspection of such documents and to make copies thereof at
7 plaintiffs' expense, but defendant's attorney has not produced any
8 of such documents.

9 /s/ Peter R. Chamberlain
10 Peter R. Chamberlain

11 Subscribed and sworn to before me this 9th day of
12 April, 1982.

13
14 151 Wright E. Chandler
15 Notary Public for Oregon
16 My Commission Expires: 9-21-82
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CERTIFICATE — TRUE COPY

I hereby certify that the foregoing copy of motion to compel and request for oral argument and affidavit is a complete and exact copy of the original.

Dated April 9, 1982.

Attorney(s) for Plaintiffs

ACCEPTANCE OF SERVICE

Due service of the within is hereby accepted on , 19 , by receiving a true copy thereof.

Attorney(s) for

CERTIFICATES OF SERVICE

Personal

I certify that on , 19 , I served the within on attorney of record for by personally handing to said attorney a true copy thereof.

Attorney(s) for

At Office

I certify that on , 19 , I served the within on attorney of record for by leaving a true copy thereof at said attorney's office with his/her clerk therein, or with a person apparently in charge thereof, at , Oregon.

Attorney(s) for

Mailing

I hereby certify that I served the foregoing MOTION TO COMPEL PRODUCTION AND REQUEST FOR ORAL ARGUMENT; AND AFFIDAVIT OF PETER R. CHAMBERLAIN on the following attorneys on the 9th day of April, 1982, by mailing to each a true copy thereof, certified by me as such, contained in a sealed envelope, with postage paid, addressed to said attorneys at the last known address of each shown below and deposited in the post office on said day at Portland, Oregon:

James D. Huegli
1200 Standard Plaza
1100 S.W. 6th Avenue
Portland, OR 97204

/s/ Peter R. Chamberlain
Attorney(s) for Plaintiffs

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** OREGON STATE AND WASHINGTON STATE BARS

Peter R. Chamberlain
Attorney at Law
222 SW Morrison Street
Portland, OR 97204

Re: See v. Remington Arms

Dear Pete:

This will confirm that the depositions of Mrs. See, Jim McDermitt and Sgt. Laughman will be taken in Phil Nelson's office on Friday, April 2 beginning at 1:30 p.m. Please find enclosed the Notice of Depositions.

I have made arrangements for a court reporter to be present as well.

Thank you for your assistance.

Very truly yours,

James D. Huegli

JDH:lr
cc: Phil Nelson
Rance Smith

MAR 25 1982