

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JUAN LOPEZ,

Plaintiff

VS.

C.A. NO. C-80-120

REMINGTON ARMS COMPANY,
INC.,

Defendant

ANSWERS TO INTERROGATORIES

Answers of Plaintiff, Juan Lopez, to the Interrogatories propounded to him on the above styled and numbered cause, pursuant to Rule 33, Federal Rules of Civil Procedure. Same are attached hereto.

Respectfully submitted,

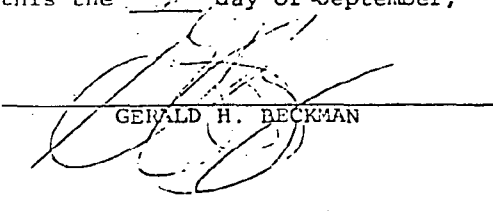
HUERTA, PENA, BECKMAN & RODRIGUEZ
ATTORNEYS AT LAW
P. O. BOX 7219 3301 AYERS ST.
CORPUS CHRISTI, TEXAS 78415

BY: 

GERALD H. BECKMAN

CERTIFICATE OF SERVICE

I hereby certify that a copy of the attached Answers to Interrogatories has been served upon counsel for Defendant, Mr. J. Robert McKissick, by mailing the same to him by first class, United States mail, properly addressed and postage pre-paid at the same time the original was mailed for filing with the clerk of this Court on this the 7 day of ^{October} September, 1980.


GERALD H. BECKMAN

1. Please state specifically the nature of the injuries you claim to have received in the occurrence made the basis of this lawsuit and, if you claim that you have not recovered from such injuries, state what complaints you still have.

ANSWER: I do not have the medical reports and opinions in front of me to answer this question but to my knowledge, I sustained four broken ribs on the right front of my chest where the bullet entered, damage to my liver, diaphragm, and my right lung. The lead fragments still remain in my body, and according to the doctors, there are six large pieces and several smaller ones spread throughout my chest cavity. Two of the larger pieces are a constant worry to me because they are very close to vital organs. One of them is next to my spinal cord and the other directly behind my heart. On heavy exertion, I have severe pain internally in my chest which prevents me from doing activities that I considered normal prior to the accident. There are two places on my body where I experience pain on an almost regular basis. One of these locations is on the right front of my chest which will come on and hurt severely for a week or two and then will go away and recur within two or three more weeks for a similar period. The other location is on my back near my left shoulder blade and it hurts much the same way as my right chest. I have had lead fragments work themselves out of both my back and my chest subsequent to the surgery and my recovery.

2. If you have at any time prior to the occurrence in question received medical attention for any injury or illness, please give the following information:
 - a. The name and address of each physician or other practitioner of the healing arts administering treatment for such injury or illness;
 - i. I had a finger injury in 1977 which was administered by the emergency room physician at Memorial Medical Center of Corpus Christi, Texas.
 - ii. I had a car accident in 1975 in which I sprained my back and I was treated by George B. Barnes, M.D., Corpus Christi, Texas.
 - b. The name and address of each hospital, clinic, sanitarium, nursing home or other institution in which you were hospitalized or received treatment;
 - i. I was not hospitalized for the finger injury.
 - ii. I was not hospitalized for the back injury in 1975.
 - c. A full description of each such injury or illness and the dates on which you received medical treatment or were hospitalized.
 - i. The injury to my right hand was to the little finger and bone of my hand.
 - ii. The back injury was simply a sprain of my lower back.
3. If you have at any time since the occurrence in question received medical attention, for any reason, please give the following information:

- a. The name and address of each physician or other practitioner of the healing arts administering treatment;

ANSWER: The only medical that I have had subsequent to this gun shot wound has been for treatment for problems directly related to the wound. They were rendered by the same physician who initially operated and cared for me, Dr. Teixeira of Alice, Texas.

- b. The name and address of each hospital, clinic, sanitarium, nursing home or other institution in which you were hospitalized or received treatment;

ANSWER: No answer required.

- c. The dates on which you consulted each physician or where hospitalized, and the total charges for each consultation or hospitalization.

ANSWER: No answer required.

4. State the name and address of each employer for whom you have worked (if self-employed so state) both prior to and since the date of the occurrence in question giving the dates of each employment.

ANSWER: a. Corpus Christi Police Department from February of 1971 until January of 1977.

b. B. F. Lopez Construction, 2844 Morris, Corpus Christi, Texas from January, 1977 until the accident.

c. October, 1978 until April of 1979--unemployed.

d. Port a Kampt Manufacturing Company, 555 Gellhorn, Houston, Texas, about April, 1979 until July, 1979.

e. Intercontinental service, 530 Portwall, Houston, Texas from July, 1979 until January, 1980.

f. Oshman's Sporting Good Store, 9501 S. W. Freeway, Houston, Texas from January, 1980 to February of 1980.

g. Unemployed from February, 1980 to March, 1980.

h. March, 1980 to August, 1980--Rice Food Market, Inc., 5333 Gulfton, Belaire, Texas.

i. J. C. Penney Company, Sharpstown Mall, Houston, Texas from mid August, 1980 until present (part time employment)

j. Distron Services, Center Street, Houston, Texas commencing Monday, September 22, 1980 and continuing. (I will be continuing to work at J. C. Penney Company concurrently).

5. State the amount of wages or income, if any, you claim to have lost as a result of the occurrence made the basis of this lawsuit and explain in detail the method by which you calculated this amount.

ANSWER: At the time of my accident, I was working with my father and netting \$2,500.00 per month clear and was out of work for approximately 6 months or a total of \$15,000.00 lost. From April of 1979 to July of 1979 while working for Port-a-Kampt I was netting approximately \$1,080.00 per month

which results in a loss of \$1,420.00 per month for three months, or a total of \$4,260.00. From July, 1979 to January of 1980 while employed with Intercontinental Services I was netting approximately \$1,100.00 per month, or \$1,400.00 less per month than at the time of my accident for a total loss of \$8,400.00. From January of 1980 to February of 1980 I worked for Oshman's at a net take home of \$480.00 per month, or a loss of \$2,020.00. From February of 1980 to March, 1980 I was unemployed. From March of 1980 to August of 1980 while working for Rice Food Market, Inc. I was netting approximately \$954.00 per month, or a loss of \$1,546.00 per month for five months, or a total of \$7,730.00. From August of 1980 until September 19, 1980 I was employed with J. C. Penney's part time netting \$694.00 per month for a one month loss of \$1,806.00. Beginning September 22, 1980 and continuing in to the future I will be working with Distron Services and expect to net approximately \$1,080.00 per month in addition to the \$694.00 per month, resulting in a total net monthly take home of \$1,774.00 per month, or a \$726.00 per month continuing loss per month as compared to my net income prior to the accident. I calculate my total loss of income from the accident until September 22, 1980 to be approximately \$41,716.00. I do not anticipate my body being able to continue working at Distron Services and J. C. Penney Company simultaneously as I am not physically capable since this accident. I would anticipate reducing my hours worked at J. C. Penney and eventually discontinuing my employment with them altogether. Consequently, the minimum continuing future loss of income per month will approximate \$726.00 per month and possibly increase or decrease from that figure depending upon my future earning abilities.

6. Explain in detail what other expenses and/or monetary losses you claim to have occurred as a result of the occurrence made the basis of this lawsuit other than medical expenses incurred in the past and lost of wages and income in the past.

ANSWER: During my disability, the mortgage company foreclosed my home which I had initially purchased for \$53,000.00 with a down payment of \$5,000.00 and at the time of the foreclosure this home was appraised at approximately \$79,000.00. I calculate my loss at approximately \$31,000.00.

During my disability I was forced to sell my truck at a minor loss of approximately \$300.00.

7. If you have ever made any claim for damages or injuries received in any accident or occurrence other than the claim asserted in this lawsuit, please explain each such claim in detail.

ANSWER: I made a claim for the automobile accident I had in 1975 and was represented by attorney Gerald Beckman. I do not recall whether a lawsuit was filed but I do remember that I did not go to Court. It was settled for approximately \$1,000.00 in addition to my medical expenses.

8. Please state the name and addresses of any and all persons, including expert witnesses, having knowledge of any facts relevant to the issues of this lawsuit.

ANSWER: John T. Butters, P.E., 1656 Townhurst Drive, Suite G, Houston, Texas 77043; Dr. Banderia Teixeira, Alice, Texas; Danny Rizzo, c/o Seaboard Pipe, Suite 806, 600 Bldg., Corpus Christi, Texas; Rudy Lozano, Houston, Texas.

9. Please state the name and address of each person whom you expect to call as an expert witness at the trial of this case, stating the subject matter on which each expert is expected to testify and the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

ANSWER: John T. Butters, P.E., See address given in Interrogatory No. 8.

Dr. Banderia Teixeira, Alice, Texas.

10. Describe in detail your version of the occurrence made the basis of this lawsuit, giving the names and addresses of each person having knowledge of any facts relevant to such occurrence.

ANSWER: Myself, Rudy Lozano, and Danny Rizzo were hunting on a ranch in Duval County near Seven Sisters on October 22, 1978. We had started hunting that morning at about 10:00 o'clock in the morning and at about 6:30 in the evening we were preparing to leave to come home. As we approached the gate to leave the ranch, Rudy and I were in the bed of the pick-up being driven by Danny Rizo. Rudy and I were standing up and had our cases laying on the top of the pick-up cab with the guns laying in the open cases. As we approached within approximately 10 yards of the gate, Danny stopped the pick-up and I got out of the pick-up to go to the gate and open it and I was carrying with me a Winchester 22 magnum rifle. Prior to opening the gate, I climbed over to check to see if there were any game within range. I did not see anything and turned back to the gate to open it and found the lock closed. I hollered at Rudy for the keys and he asked Danny to give them to me but Danny was relieving himself at the time. I finally became impatient and started to climb back over the gate to get the keys when Rudy's gun went off and the bullet impacted me in the right chest.

Danny Rizzo owns his own company, Seaboard Pipe Company, whose address is given in the previous Interrogatory. Rudy Lozano lives in Houston, I do not have his address but will supply it later.

11. Describe in detail the ownership history of the rifle made the basis of this lawsuit including, but not limited to the dates of ownership and the manner in which the rifle was obtained by each person who has owned the rifle.

ANSWER: Of my own personal knowledge, the farthest back that I can trace the history of the rifle in question was it was owned by Juan DeLaGarza, Jr., and to my knowledge, I do not believe he had ever fired the gun. Juan DeLaGarza, Jr. sold the gun to Rudy Lozano approximately a year before this accident as partial payment of a personal debt. At the time of the accident the gun was still in the possession and ownership of Rudy Lozano.

12. Is the total amount of actual monetary damages that you claim as a result of the occurrence made the basis of this lawsuit in excess of ten thousand dollars (\$10,000.00)?

ANSWER: Yes.

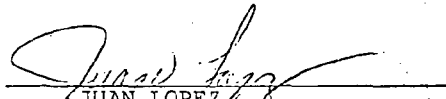
13. State the name and address of any persons other than the Plaintiff, Juan Lopez that has repaired, serviced, altered, or made any change whatever to any part or parts of the rifle in question in this lawsuit at any time.

ANSWER: To my knowledge, at the time the gun in question was transferred from Juan DeLaGarza, Jr. to Rudy Lozano, I do not believe the gun had ever been fired or serviced in any manner. I do know that the gun did not have a scope on it at that time. This was approximately a year before the accident. Approximately a month to six weeks before the accident, Rudy purchased a scope and I believe he mounted the scope on the gun himself. However, it was not necessary for him to tamper with the internal mechanism of the rifle at all to perform this task. At the same time, I helped Rudy bore site the gun at my house. To my knowledge, this is the only service that was ever rendered to this gun prior to the accident. It had never been placed in the hands of a gunsmith or a repair shop for any reason.

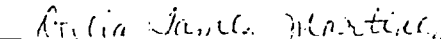
THE STATE OF TEXAS X

COUNTY OF NUECES X

BEFORE ME, the undersigned authority, personally appeared
Juan Lopez, who on his oath stated to me that he is the Plaintiff
to whom the Interrogatories were directed in the above entitled
lawsuit and that the facts contained in the foregoing Answers to
Interrogatories are true and correct to the best of his knowledge
and belief.


JUAN LOPEZ

SUBSCRIBED AND SWORN TO before me on this the 2nd day
of October, 1980.


Notary Public, IN and For
Nueces County, T E X A S

OTILIA TAMEZ MARTINEZ
Notary Public IN and for Nueces County, Texas
My Commission Expires June 1, 19 81