

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3

4 TERI SEE and DARREL SEE,)
husband and wife,)
5)
Plaintiffs,)
6)
vs.) Case No. 81-886
7)
REMINGTON ARMS COMPANY, INC.,)
8)
Defendant.)
9

10 Before: Honorable Edward Leavy, Magistrate
11 United States District Court

12 TESTIMONY OF JAMES A. STEKL
13 March 2, 1983

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1 PORTLAND, OREGON, WEDNESDAY, MARCH 2, 1983, 10:00 A.M.

2

3 MR. CHAMBERLAIN: At this time we would call Mr. James
4 Stekl.

5

6 JAMES A. STEKL,
7 called as an adverse witness on behalf of the plaintiff herein,
8 having been sworn, testified as follows:

9 THE CLERK: Please state your name and spell your last
10 name for the record.

11 THE WITNESS: James A. Stekl, S-t-e-k-l.

12

13 DIRECT EXAMINATION

14 BY MR. CHAMBERLAIN:

15 Q Mr. Stekl, you are a Remington employee?

16 A Yes, I am.

17 Q What is your job title?

18 A I'm Supervisor of product service.

19 Q And one of your job functions is resolution of
20 product complaints?

21 A That's right.

22 Q In that regard, you deal with consumer problems, and
23 in particular with used guns that have been returned from the
24 field?

25 A Yes.

1 Q. You are familiar with the design of the Remington
2 Model 700 as it existed since December of 1976?

3 A. Yes.

4 Q. For example, you are aware that the bolt mechanism,
5 the firing mechanism, safety mechanism, on the model is the
6 same, regardless whether you are talking about Model ADL, or
7 BDL, or a varmint?

8 A. Yes, that's correct.

9 Q. And that would be true for all Remington Model 700's
10 manufactured between January of 1971 and January of 1982;
11 wouldn't it?

12 A. Yes.

13 MR. CHAMBERLAIN: May the witness be handed Exhibit 2,
14 please (to the clerk, who complies).

15 Q. (By Mr. Chamberlain) That exhibit has previously
16 been identified as the rifle involved in the shooting of Teri
17 See. That is a Remington Model 700, is it not?

18 A. Yes, it is.

19 Q. And that rifle cannot be unloaded without-- assuming
20 you have the rifle loaded and the bolt cocked and the rifle in
21 the on-safe position, you can't unload that rifle, or, at
22 least, you can't take a bullet out of the chamber without
23 moving the safe from the on-safe position to the off-safe
24 position; correct?

25 A. That's right.

1 Q And if you have that rifle loaded, the bolt cocked,
2 and the safety in the on-safe position, you can move the
3 trigger of that rifle, can you not?

4 A Yes. Yes.

5 Q And it will move just as far as it would as if the
6 safety were off?

7 A Um-hm.

8 Q Makes no difference?

9 A No.

10 Q There is no, then, no trigger lock mechanism?

11 A No.

12 Q Correct?

13 A Correct.

14 Q And, in fact, when the safety is in the on-safe
15 position, and that gun is loaded, and the bolt is closed, and
16 the gun is cocked, it takes very little effort to pull the
17 trigger rearward; isn't that true?

18 A Well, very little is a relative term.

19 Q Well, I'm using your words from letters you have
20 written to customers, aren't I?

21 A Yes, um-hm.

22 Q And with that particular design, if the gun is
23 loaded, the bolt is cocked and closed, and the safety is in
24 the on-safe position, something causes that trigger to stay in
25 a pull position, such as the finger of an operator, or such as

1 a gummed-up condition in the trigger assembly, when that gun
2 is-- when the safety of that gun is moved from the safe
3 position to the off-safe position, the gun will fire, won't it?

4 MR. HUEGLI: Objection, Your Honor. I believe Mr.
5 Chamberlain has asked Mr. Stekl a compound question. One is
6 whether something in the firearm that is gummed up; the second
7 half of the question is, will it fire when you pull the
8 trigger.

9 I think Mr. Stekl should be allowed to address those
10 individually.

11 MR. CHAMBERLAIN: I can restate it.

12 THE COURT: All right.

13 Q. (By Mr. Chamberlain) Mr. Stekl, I'd like you to
14 assume the way this gun is designed, loaded, cocked, bolt
15 closed, on safety, in the on-safe position, and something,
16 anything, causes that trigger to stay in the pull position,
17 whether it be something in the mechanism itself, or whether it
18 be a human finger, when that safety is moved to the fire
19 position or the off-safe position, the gun will discharge;
20 won't it?

21 A. Yes, it will, because the trigger is being pulled
22 and the gun is no longer on safe.

23 Q. Right. Now, you have had an opportunity, at least
24 two opportunities to examine Exhibit 2, haven't you?

25 A. Yes.

1 Q And the first time was in the presence of our expert,
2 Mr. Martin, back in Maryland?

3 A Yes.

4 Q And with you, on that occasion, was a Remington
5 employee by the name of Jack Chisnel?

6 A That's correct.

7 Q And the second time that you had an opportunity to
8 examine this rifle was the day your deposition was taken in
9 August of 1982?

10 A Yes.

11 Q In Ilion, New York?

12 A Um-hm.

13 Q Now, on both those occasions, you noted the gun was
14 dirty?

15 A Yes.

16 Q Did you not?

17 A Yes.

18 Q And didn't you tell me at your deposition that on the
19 second occasion it was your opinion that the gun wasn't as
20 dirty as it had been on the first?

21 A Well, it-- I wasn't sure of that. It's possible. I
22 mean, you know, it's been handled. Somebody could have wiped
23 it off.

24 Q Well, let's make sure you understand my question. The
25 day your deposition was taken you told me, did you not, that it

1 appeared to you on that date that the gun was in better
2 condition than it was when you saw it before?

3 A. It appeared to be, um-hm.

4 Q. And later in your deposition, didn't you tell me that
5 would be partly explainable because a firearm can lose some
6 lubrication over time?

7 MR. HUEGLI: Your Honor, if Mr. Chamberlain is going to
8 attempt to impeach Mr. Stekl with the deposition, the proper
9 impeachment would be to ask him a question and the answers as
10 read at that time, rather than summarize it.

11 This is an improper method of impeachment, if that
12 is what he's attempting to do.

13 THE COURT: It's overruled.

14 Q. (By Mr. Chamberlain) Didn't you tell me in your
15 deposition that part of the explanation for why that rifle may
16 have been cleaner on the day of the deposition than it was
17 when you had seen it previously was that a firearm can lose
18 some lubrication over time?

19 A. As I remember it, Mr. Chamberlain, you asked me that
20 question at a different time. It wasn't in the same line of
21 questioning as, was the gun in the same condition at the time
22 of the deposition as it was at the time of my original
23 examination.

24 Q. Let me read to you the question and the answers, and
25 you tell me if this was the answer you gave, at page 29, of

1 your deposition.

2 (Reading:) In your experience with Rem-
3 ington Model 700's, is it possible that a firearm
4 that, say, has been lubricated in the trigger
5 mechanism could lose part of that lubrication due
6 to either dripping out or due to traveling, cause
7 the model like you see here on the bolt lock, is
8 that something that we could expect over time.

9 And you gave this answer: Is it possible
10 for the firearm to lose some lubrication; is that
11 your question.

12 My question was then: Right.

13 And do you remember you gave the answer (reading):
14 I would say probably so?

15 A. Yes.

16 Q. That was your testimony?

17 A. Um-hm.

18 Q. And then you also, on your second examination of the
19 rifle, and by that I mean in New York at the time of your
20 deposition, you noted that the bolt stop device on that rifle
21 was nearly inoperative?

22 A. Yes.

23 Q. Now, an inoperative bolt stop could never cause a
24 Remington Model 700 to fire when the safety is released, had
25 it?

1 A. Not that point alone, no.

2 Q. And the first time you examined the rifle, you noted
3 that the trigger assembly contained what you described as
4 solidified solvent, correct?

5 A. Yes.

6 Q. You noted that the trigger pull was within Remington
7 specifications?

8 A. As I remember, yes.

9 Q. The trigger pull is just the number of pounds it
10 takes to pull the trigger?

11 A. Correct.

12 Q. That is something that is adjustable?

13 A. Yes.

14 Q. And Remington sets a specification and says it's
15 between three and five pounds that is acceptable?

16 A. I believe that is what the specifications are.

17 Q. And you also noted in your original examination that
18 the rifle trigger adjusting screws had not been adjusted?

19 A. They didn't appear to be.

20 Q. And in particular, you noted that the adhesive
21 coating over those screws was intact, right?

22 A. As I remember.

23 Q. And that adhesive coating was of the same type that
24 Remington uses?

25 A. It appeared to be.

1 Q So, based on your observations, then, is it fair to
2 conclude there had been no improper adjustment of the trigger
3 screws in your opinion?

4 A There didn't appear to be.

5 Q I take it, then, you would disagree with your
6 employer who made this contention in this lawsuit, page 10 of
7 the pretrial order, that the owner of this rifle was negligent
8 improperly adjusting the trigger pull contrary to manu-
9 facturer's directions?

10 A Would you please repeat that.

11 Q I said, you would, I take it, based upon what you
12 just told us, that you would disagree with the contention of
13 your employer stated in the pretrial order where your employer
14 states that the owner was negligent in improperly adjusting
15 the trigger pull, contrary to manufacturer's directions; you
16 don't have any evidence to that, do you?

17 A Not that I recall.

18 Q Now, Exhibit 2 is not the first Model 700 that you
19 have ever seen that had solidified solvent in the trigger
20 mechanism, is it?

21 A No.

22 Q In fact, you have seen many of them?

23 A I have seen others.

24 Q You have seen more than 10 of them?

25 A Yes.

1 Q For example, and in your experience, isn't it true
2 that that condition is usually a result of the owner's attempt
3 to either lubricate or clean the trigger mechanism?

4 A I would say in most cases.

5 Q Now, at your deposition, do you remember that you
6 told me that Remington does not recommend using solvent in the
7 trigger mechanism?

8 A I think we said we did not recommend using lubrica-
9 tion in the trigger mechanism.

10 Q I want to get to lubrication in a minute. Right now
11 I would like to talk about the solvent.

12 MR. HUEGLI: Mr. Chamberlain, what page are you on?

13 MR. CHAMBERLAIN: Page 18.

14 Q (By Mr. Chamberlain) Do you remember that this
15 question was asked and you gave this answer-- okay (reading):

16 What is your understanding of Remington's
17 recommendation for advice about the use of solvent
18 on its trigger mechanisms.

19 Answer: It is not recommended, as far as I
20 know. I think we so state that in the manual.

21 Do you remember being asked that question and giving
22 that answer?

23 A Vaguely.

24 Q Well, in fact, isn't it true, Mr. Stekl, that the
25 owner's manual for the Model 700 Remington rifle tells the user

1 to wash the action with solvent; that's true, isn't it?

2 A. With a petroleum based solvent, I believe, yes.

3 Q And, as far as you want to talk about lubricants,
4 at your deposition, do you recall that you told me that
5 Remington did not recommend using the lubricant in the trigger
6 mechanism?

7 A. I believe that is right.

8 Q In fact, the owner's manual says that one is to use
9 little or no lubrication, right?

10 A. That's correct.

11 Q Don't you think that the owner, reading that, where
12 it says use little or no lubrication would assume that it's
13 reasonable and safe to use a little lubrication?

14 A. Probably.

15 Q If Remington's intent was to have no lubrication used
16 in the trigger mechanism, wouldn't it be clearer to that user
17 to say, Use no lubrication?

18 MR. HUEGLI: Objection. He's asking for an opinion.

19 Little or no would mean extremely little to me. I
20 don't know what it would mean to Mr. Stekl.

21 He's asking him to assume what someone else would
22 assume that means.

23 THE COURT: The objection is sustained.

24 Q (By Mr. Chamberlain) Now, the owner's manual does
25 tell the user, give the user a reason for not using too much

1 lubrication, doesn't it, down in the lubrication section of
2 the manual?

3 A. Yes.

4 Q. Would you like to see it?

5 A. Yes, I would. I don't remember the exact wording.

6 MR. CHAMBERLAIN: Could the witness be handed Exhibit 10,
7 please-- I may still have it here.

8 (The clerk provides the exhibit as requested to the
9 witness.)

10 Q. (By Mr. Chamberlain) Before we get to that, Mr.
11 Stekl, could you identify Exhibit 10 for the jury?

12 A. This is a copy of a Model 700 bolt action rifle
13 owner's manual.

14 Q. And that's the owner's manual that was included in the
15 box with new Model 700 rifles in December of '76?

16 A. I would think so, yes.

17 MR. CHAMBERLAIN: We'll offer Exhibit 10.

18 MR. HUEGLI: No objection.

19 THE COURT: Received.

20 Q. (By Mr. Chamberlain) Now, turn to the-- the cover
21 is page 1. If you would turn to the third page, you will find
22 the lubrication section.

23 A. Yes.

24 Q. Did you find that?

25 A. Yes.

1 MR. CHAMBERLAIN: Your Honor, we have a-- we have that
2 same section as a blown up photo, Exhibit 115. Might we put
3 that on the board for the jury's benefit?

4 THE COURT: Yes.

5 MR. CHAMBERLAIN: I think it's over in that stack (to the
6 clerk, who places the exhibit on the easel).

7 MR. CHAMBERLAIN: Can we move that a little closer to the
8 jury, perhaps (the clerk complies).

9 MR. CHAMBERLAIN: Thank you.

10 THE COURT: Can each of you see it now? All right.

11 Q. (By Mr. Chamberlain) Now, Mr. Stekl, let's turn
12 your attention to lubrication section. First sentence, where
13 it says, talks about using little or no oil. It gives the
14 owner a reason for using little or no oil, doesn't it?

15 A. Yes, um-hm.

16 Q. And the reason is that the gun will stay clean
17 longer?

18 A. Yes.

19 Q. And nowhere in that section does it suggest that the
20 gun not kept in that clean condition, that it will malfunction;
21 does it?

22 A. No.

23 THE COURT: Mr. Chamberlain, I don't know what your
24 purpose is in answering that question. The rest of us could
25 answer it. And the exhibit is in evidence, and I don't see the

1 need to put a witness on the stand to tell us what isn't there.

2 MR. CHAMBERLAIN: Okay.

3 THE COURT: I prefer that you not do that.

4 MR. CHAMBERLAIN: I'll move on.

5 Q. (By Mr. Chamberlain) Now, isn't it true, Mr. Stekl
6 that a new rifle, a new Model 700, right off Remington's
7 assembly line would have some lubricant in the trigger assembly?

8 A. Inside the trigger assembly, did you say?

9 Q. Right.

10 A. I don't know. I don't know if that would be in our
11 process or not.

12 Q. When I asked you that question at your deposition, I
13 asked you at page 96 (reading): Would it be normal to find
14 some molycoat (phonetic) in the action of Model 700 as it comes
15 off the assembly line; and you said, possibly, yes.

16 A. And I also said, I believe I said, if it is in our
17 process to use it, and at that time, I didn't know.

18 Q. And you don't know today?

19 A. No.

20 Q. Would you agree, if there was lubrication in the
21 trigger mechanism, that that lubrication would thicken in
22 colder weather?

23 A. Depending on the type of lubrication, I would say.

24 Q. Let's take oil. Would you agree that oil is thicker
25 at lower temperatures than it is at higher temperatures?

1 A. I would think so, most oils.

2 Q. And if there was thicker lubrication in the trigger
3 mechanism, that lubrication could prevent the trigger mechanism
4 from working properly, couldn't it?

5 A. Possibly, um-hm.

6 Q. And it could cause the rifle to fire when the safety
7 was released, couldn't it?

8 A. I would say that is a possibility.

9 Q. Let's talk about some other possible causes of a
10 Remington Model 700 firing when the safety is released.

11 If the rifle had, say, broken trigger assembly parts,
12 that could cause it, could it not?

13 A. Yes. Yes.

14 Q. And you have examined Exhibit 2, and there are no
15 broken trigger assembly parts?

16 A. No.

17 Q. Improper adjustment of adjusting screws could cause
18 it?

19 A. It's a possibility.

20 Q. And you have already told us there was no such
21 improper adjusting in this case?

22 A. Doesn't appear to.

23 Q. Lubricant or solvent residue in the trigger mechanism
24 could cause it?

25 A. Yes.

1 Q A bent trigger-- trigger lever could cause it?

2 A Bent trigger lever.

3 Q If the trigger lever was bent, such as it was binding
4 against the wood of the stock?

5 A Possibility.

6 Q Trigger lever on Exhibit 2 is not bent, is it?

7 A Doesn't appear to be.

8 Q And it's also true, in your experience, that a
9 certain number of customers complain where the customer
10 complains that the gun fires when safe is released, having
11 unexplained--

12 A Yes.

13 Q And when that occurs and you get a gun like that, you
14 make the assumptions that someone or something pulled the
15 trigger, right?

16 A That's the only conclusion we can come to on some of
17 them, yes.

18 Q Are you a member of the Gun Examination Committee?

19 A Yes, I am.

20 Q And that's the Committee that we have heard
21 deposition testimony regarding, earlier today, also yesterday?

22 A Yes.

23 Q And as a member of that Committee, you have examined
24 any number of Model 700's where the customer's complaint was
25 that the rifle fires when the safety is released?

1 A. Yes, we have.

2 Q. And on some of those complaints, it has been your
3 conclusion, or the Committee's conclusion that the FSR, or
4 fire when safe release condition was caused by gum-up fire
5 control?

6 A. There is a possibility.

7 Q. Fire control is the same as the trigger mechanism,
8 right?

9 A. Yes. Yes.

10 Q. And when you use the term, or when I use the term
11 gummed up, you understand that to mean that lubricant or other
12 substance, such as solvent, is present in the trigger assembly
13 parts, have evaporated and left a gummy residue in the trigger
14 assembly?

15 A. Yes, basically.

16 Q. When you see that condition, the solvent and/or
17 lubricant in a certain percentage of gun owner's lists; don't
18 you?

19 You would agree with me that a trigger that is
20 gummed up is more apt to suffer a firing when the safe is
21 released in cold weather, because the substance in the trigger
22 will be thicker?

23 MR. HUEGLI: Objection. This is exactly the problem that
24 I was afraid would occur that we are not asking a witness to
25 speculate on any one of a number of variables and only giving

1 him two and asking him whether or not he agrees it's more
2 likely to happen when only two variances are placed in a
3 sequence.

4 I would object to this as being without any foundation
5 as to what happened in this case, that's See versus Remington
6 case. This is not somebody in Georgia.

7 MR. CHAMBERLAIN: There is evidence they were hunting in
8 cold temperatures, evidence that the rifle did have some gum-up,
9 and the witness has demonstrated in the deposition that he is
10 capable of answering the question.

11 MR. HUEGLI: Your Honor, first, there is no evidence that
12 these people were hunting in any significant cold temperatures.

13 Mr. Chamberlain and I both have a certified tran-
14 script of temperature at that time, if he would like to lay a
15 foundation and tell the jury the true facts, we have no
16 objection to producing a certified transcript of the weather
17 report that we both have and let the witness answer the
18 questions based upon the facts.

19 THE COURT: It's overruled.

20 You can answer.

21 Do you have the question in mind? If you do not, the
22 reporter will read it for you.

23 (Whereupon, the reporter reads the last question aloud.)

24 THE WITNESS: Well, I would think that it would depend
25 how cold, number one, and then, again, I think it would make

1 a difference on what type of material was in the trigger
2 assembly.

3 Q Okay. You remember when your deposition was taken,
4 page 27, this question was asked and you gave this answer:

5 (Reading:) If you have cold weather and
6 you have some petroleum, either a solvent or oil,
7 or grease, and the trigger mechanism, that substance
8 is going to be thicker in cold weather.

9 Right. Answer.

10 Based upon your knowledge of the 700
11 and the problem that we have been discussing,
12 the trigger that has a substance in it is more
13 apt to fail the trigger test at zero degrees
14 Fahrenheit than it would be at room temperature.

15 Your answer: Probably.

16 Question: That is because of thickness.

17 Answer: Yes.

18 Do you remember those questions?

19 A Yes, and you just specified zero degrees there. I
20 would agree with that.

21 Q And it's also true that a gun, if you had one that
22 did fail at zero degrees Fahrenheit, that gun might not
23 malfunction at room temperature?

24 A That is a possibility.

25 Q It's also true that that gun might not fire when the

1 safety is released after it has been cleaned, true?

2 A. What part cleaned?

3 Q. The trigger assembly.

4 A. It's possible.

5 Q. Well, isn't likely, if it's gummed up condition of
6 trigger assembly is causing a malfunction, and you clean that
7 trigger assembly, isn't it likely that malfunctions will cease
8 to occur?

9 A. Yes, um-hm.

10 Q. So, if Exhibit 2, the rifle that is in front of you,
11 in fact did fire when the safety was released on October 27,
12 of '79, and if then that gun was cleaned after that accident,
13 it wouldn't surprise you that you were unable to duplicate the
14 fire when safe release malfunctions; would it?

15 MR. HUEGLI: Objection. There is no evidence in this
16 case that I know of that the gun was ever cleaned later.

17 MR. CHAMBERLAIN: I'll lay a foundation later.

18 MR. HUEGLI: I'd like, if it's assumed that it was cleaned
19 and that my client and our experts didn't get a chance to
20 examine the gun in the same condition at the time this accident
21 occurred, I'd like to know that at the time of trial, because
22 we sure didn't know that today.

23 THE COURT: It's overruled.

24 Q. (By Mr. Chamberlain) Do you remember the question?

25 A. No, please repeat it.

1 Q The question was, in fact, the Exhibit 2, the
2 accident rifle, did fire when the safety was released on the
3 day of the accident, and if that rifle was cleaned after the
4 day of the accident, would it surprise you that the rifle would
5 not duplicate the malfunction after cleaning; that wouldn't
6 surprise you, would it?

7 A No. Depending on the removal.

8 Q You have seen lots of-- you have seen lots of what
9 you would call dirty Model 700's that don't fire when the
10 safe is released?

11 A We have seen some, yes.

12 Q I would like to talk briefly about Remington's
13 document retention policy. Gun Examination Committee Reports
14 are written up in the forms called Gun Examination Reports,
15 right?

16 A Right.

17 Q And those Gun Examination Reports are subject to
18 DuPont's three-year document retention program?

19 A Yes.

20 Q And I say DuPont, because DuPont is the corporation
21 that owns Remington?

22 A That's right.

23 Q So after three years, they are destroyed?

24 A Yes.

25 Q And if I requested documents, say, for the last five

1 years, I would only actually get the last three years?

2 A. That's right. That's right.

3 Q. Okay. Now, as part of your work on the Gun Examina-
4 tion Committee, you write customers at the gun shops about the
5 complaints that they have stated?

6 A. Yes.

7 Q. And every complaint that you receive is responded to
8 in the regular course of your business, right?

9 A. Every complaint that I receive, is that your
10 question?

11 Q. Right. Every complaint that the Gun Examination
12 Committee receives would be responded to in the normal course?

13 A. Yes, yes one way or another.

14 Q. And with the Model 700, typically, it was you that
15 did that correspondence, was it not?

16 A. In the majority of cases.

17 MR. CHAMBERLAIN: Could the witness be handed Exhibit 20,
18 please (to the clerk, who complies).

19 At this time we would offer Exhibit 115, which is
20 the enlargement of page 3 of Exhibit 10.

21 THE COURT: Mr. Huegli, do you have an objection to the
22 offer of the exhibit?

23 It's exhibit number what?

24 MR. CHAMBERLAIN: 115.

25 MR. HUEGLI: It's one of those boards there?

1 THE COURT: Yes, it's the one on the easel a moment ago.

2 MR. HUEGLI: Well, I don't object to it from the standpoint
3 that it has already been offered and admitted.

4 THE COURT: The objection is sustained. Rejected.

5 MR. CHAMBERLAIN: I'm not sure I'm clear. I thought he
6 said he did not have any objection.

7 MR. HUEGLI: I would object to it. It's already been
8 offered, and--

9 THE COURT: We don't need it twice. If you want to point
10 it out, and you already have those words on some other piece
11 of paper in this case, we only need it once.

12 MR. CHAMBERLAIN: Thank you, Your Honor.

13 Q. (By Mr. Chamberlain) Okay. Do you have Exhibit 20
14 before you, Mr. Stekl?

15 A. Yes.

16 Q. Could you identify that for the record, please.

17 A. Well, that is a Gun Examination Report, No. 431, I
18 believe.

19 Q. And attached to it is the receiving and estimating
20 report prepared by Remington when it received this complaint?

21 A. Yes.

22 Q. And attached also is the correspondence from your
23 customer?

24 A. Yes.

25 Q. Behind that is also your response to the customer;

1 is that correct?

2 A. That's correct.

3 Q. Okay. Drawing your attention to page 2 of that
4 report, which is the document entitled Receiving and Estimate
5 Report, do you see that?

6 A. Yes, um-hm.

7 Q. About-- almost halfway down the page on the left-
8 hand side of the form is the word fault part of the printed
9 form?

10 A. Yes, um-hm.

11 Q. I think if we had a better photocopy, that actually
12 would say main fault, wouldn't it?

13 A. I think it does. I think part of the left-hand side
14 is missing here.

15 Q. And that main fault section, isn't that where
16 Remington records its diagnosis of the customer's complaint--

17 A. Yes.

18 Q. --typically.

19 And on this particular one, for instance, they
20 reported that they were unable to duplicate the customer's
21 complaint; right?

22 A. Yes.

23 MR. CHAMBERLAIN: Your Honor, I don't know when you want
24 to take your morning break. I've quite a bit more with Mr.
25 Stekl.

1 THE COURT: This is a good time. We will do it now.

2 Member of the jury, we will take a recess for a bit.

3 (Recess.)

4 MR. CHAMBERLAIN: May the witness be handed Exhibit 19,
5 please (the bailiff complies).

6 Q. (By Mr. Chamberlain) Mr. Stekl, you have Exhibit 19
7 in front of you?

8 A. Yes.

9 Q. Would you briefly identify that for the jury, please.

10 A. This is Gun Examination Report No. 623.

11 Q. And that was the Gun Examination Report relating to
12 a Model 700 Remington BDL?

13 A. Yes.

14 Q. A gun manufactured in what year?

15 A. In 1974.

16 Q. And what is the serial number of that gun?

17 A. 6749631.

18 Q. And is that Gun Examination Report prepared as a
19 result of a customer complaint?

20 A. Yes.

21 Q. What was the customer's complaint?

22 A. Well, according to what is marked on the Gun Examina-
23 tion Report, complaint, safety is thrown off, gun goes off.

24 Q. And Remington had an opportunity to examine that
25 rifle?

1 A. Yes.

2 Q. And they were unable to duplicate that complaint?

3 A. Unable to duplicate customer complaint.

4 Q. It's true, is it not, as a result of that complaint,
5 Remington did replace the trigger assembly on that gun?

6 A. Yes.

7 Q. At no charge to the customer?

8 A. That is correct.

9 Q. And then you wrote a letter to the customer?

10 A. Yes, I wrote the letter before the replacement was
11 made.

12 Q. And in that letter you told the user that the gun met
13 Remington's specifications?

14 A. Yes.

15 Q. And you told them that Remington was unable to
16 duplicate that complaint?

17 A. That's right.

18 MR. HUEGLI: Your Honor, for the record, if we are going
19 to go through a lot of these, I perceive that-- well, all of
20 these documents speak for themselves. The letter is self-
21 explanatory.

22 THE COURT: Is the letter in evidence?

23 MR. CHAMBERLAIN: I'm about to offer it. I'll offer it
24 now, the entire Exhibit 19.

25 THE COURT: All right.

1 MR. HUEGLI: We take the same position we have previously.

2 THE COURT: All right. Overruled.

3 That is Exhibit 19?

4 MR. CHAMBERLAIN: That's right, Your Honor.

5 THE COURT: It's received.

6 Now, I think you understand that there is no need for
7 him to read any exhibit to us. If it's necessary in order for
8 him to understand a question, I'm not going to be very
9 sensitive about this, but I ask that you just not spend our
10 time having a witness reading to us.

11 MR. CHAMBERLAIN: All right. If you will give me just a
12 moment here, I'll get them all together and have him identify
13 them, and we can put them into evidence.

14 Could I have some exhibits handed to the witness,
15 please (to the bailiff, who complies).

16 Q. (By Mr. Chamberlain) Mr. Stekl, I've handed you a
17 stack of exhibits, and if you would keep them in the order that
18 I have handed them to you in, we will talk about them in that
19 order, starting with-- the top one Exhibit 23 of the group that
20 I just handed you?

21 A. What is your order? This isn't the order that they
22 are in.

23 Q. Well, find Exhibit 23 there.

24 A. Okay, here's 23.

25 Q. Okay. And can you identify that for the jury,

1 please.

2 A. Yes, that's a Gun Examination Report No. 244.

3 Q. And involving a Model 700 where the customer's
4 complaint was that the gun fired when the safety was released?

5 A. Yes.

6 Q. Do you have Exhibit 42 there?

7 A. No, I don't seem to find 42.

8 Q. How about Exhibit 17?

9 A. I'm--

10 Oh, here it is.

11 Q. Okay. And can you identify that to the jury, please.

12 A. Gun Examination Report No. 401, I believe.

13 Q. Involving a Remington Model 700 where the customer's
14 complaint was that the gun fired when the safety was released?

15 A. That's correct.

16 Q. Do you have Exhibit 17 before you?

17 A. Yes.

18 MR. HUEGLI: Your Honor, we will stipulate that
19 everything that Mr. Chamberlain is going to put into evidence
20 is a gun fired when safe was released. I don't think it's
21 necessary to repeat it in every instance.

22 THE COURT: All right.

23 MR. CHAMBERLAIN: In that case, we would offer Exhibits 19,
24 23, 42, 17, 41, 21, 39, 22, 40, 24, 20, 26, 25.

25 THE COURT: Same position on them?

1 MR. HUEGLI: Yes, Your Honor.

2 THE COURT: Same ruling. They are each received.

3 MR. CHAMBERLAIN: Thank you.

4 Q. (By Mr. Chamberlain) Mr. Stekl, in your repair
5 correspondence with gun owners, one of the things that you
6 typically tell them is that Remington strongly recommends that
7 oil be used sparingly on the rifle, with no lubrication added
8 to the trigger mechanism; aren't those your words?

9 A. Yes.

10 Q. Those words are typically found in the letters that
11 you write to customers about Model 700 malfunctions?

12 A. Yes.

13 Q. Other than the language that you testified about in
14 the lubrication section of the owner's manual, Exhibit 10,
15 there is nowhere else that any such strong recommendation is
16 printed, is there?

17 Let me clarify that, if you need it. Printed in
18 material that is given to the owner when he purchases the gun
19 in December of '76.

20 A. No.

21 Q. Do you have Exhibit 10 before you still, the owner's
22 manual?

23 A. Yes.

24 Q. Yeah. That particular copy is a photocopy.

25 A. Yes, it is.

1 Q Could you describe for the jury what, if you had the
2 original there, what it looks like, physically, the size it is,
3 what color it is.

4 A Well, this is the actual size, as indicated by the
5 gray area here.

6 It's what?

7 Q Color is typically bright green?

8 A Yes, it is.

9 Q And the pages inside are very light green paper?

10 A I believe so.

11 Q Printing is black?

12 A Yes, um-hm.

13 Q No color used?

14 A No.

15 Q Now, I want to talk a little bit about the bolt
16 lock feature on the Model 700 rifle. You are familiar with
17 that feature, are you not?

18 A Yes.

19 Q And you would agree with me, wouldn't you, that it
20 would be feasible for Remington, in December of '76, or even
21 before then, to cut short the lever arm on the safety and
22 eliminate the bolt lock feature?

23 MR. HUEGLI: Your Honor, we would stipulate at the time
24 this rifle was manufactured, we could have removed the bolt
25 lock and had the gun manufactured with no bolt lock and unload

1 the rifle when the rifle stayed in the safe position.

2 THE COURT: All right.

3 MR. CHAMBERLAIN: I want to ask one more question on that,
4 if I might, Your Honor.

5 THE COURT: All right.

6 MR. CHAMBERLAIN: Can I approach the exhibits?

7 THE COURT: Yes.

8 Q (By Mr. Chamberlain) Mr. Stekl, your counsel has
9 agreed that it would be feasible to remove the bolt lock
10 feature, and it could have been done in 1976.

11 Would you agree with me that, referring now to
12 Exhibit 47, photograph of the trigger assembly, that all that
13 would be required to accomplish that change would be to shorten
14 the right-hand side of the lever arm?

15 MR. HUEGLI: Your Honor, I object. There is no particular
16 reason to show how we would have done it.

17 I think his expert is going to show how we could have
18 done it. This man is not an engineer. It's feasible it could
19 be done in any number of ways.

20 THE COURT: It's overruled.

21 MR. CHAMBERLAIN: Do you remember the question?

22 THE COURT: Please repeat it.

23 Q (By Mr. Chamberlain) Isn't it a fact on or about
24 December 1976 to eliminate the bolt action feature on the
25 Model 700 rifle, at least one of the ways that it could have

1 been accomplished was to cut short the right-hand side of the
2 lever arm?

3 A. That would have been a way.

4 Q. Okay. And that would be a change that wouldn't be
5 extremely expensive, would it? Just a matter of cutting that
6 short?

7 A. No.

8 Q. And in fact, in December of 1976, isn't it true that
9 Remington offered other bolt action rifles that did not have
10 the bolt lock feature?

11 A. Other models?

12 Q. Other bolt action rifles, not 700's, but other models?

13 A. I believe we did at that time. I'm not really sure.

14 Q. Well, how about the Model 788 Remington; wasn't that
15 a bolt action rifle that did not have a bolt lock?

16 A. Yes.

17 Q. And back in '70 to '73 time period, isn't it true
18 that Remington sold a model-- 5 millimeter Magnum bolt action
19 that did not have a bolt lock?

20 A. I'm not really familiar with the 5 millimeter. I
21 don't know if that had a bolt lock or not.

22 Q. We have one here. I'll show it to you and give you
23 a chance to examine it.

24 May the witness be handed Exhibit 113, please. It's
25 one of the shorter ones there, I think.

1 MR. HUEGLI: Mr. Linde advised me we did, and we will
2 stipulate to it. We will stipulate at that time we produced
3 this rifle with no bolt lock in '73, '74.

4 MR. CHAMBERLAIN: In that event, I would offer Exhibit
5 113, which is the Model 591 Remington, and I would offer
6 Exhibit 30, I believe it is, which is-- correction, Exhibit 31,
7 the Remington Model 788 rifle.

8 MR. HUEGLI: The jury would like to take them in the jury
9 room, I suppose, but I see no relevance.

10 THE COURT: Wait a minute.

11 MR. HUEGLI: I would object. I see no relevance in taking
12 those rifles that we stipulated that we had manufactured rifles
13 with and without bolt locks at the time this gun was made. I
14 see no relevance to proving something that is already a
15 stipulated fact.

16 THE COURT: It's overruled. They are received.

17 Q (By Mr. Chamberlain) Now, Mr. Stekl, I've got just
18 a couple more questions for you. I want you--

19 Do you remember Exhibit 2, the accident rifle?

20 A. Yes.

21 Q I want you to assume that the person handling that
22 rifle on October 27, of 1979, was going to unload it; I want you
23 to assume that the gun was loaded and cocked and on safe at the
24 time; and assume that when the safety was pushed from the safe
25 position to the fire position, the gun discharged. Just assume

1 those facts.

2 You would agree with me, wouldn't you, that assuming
3 those facts, that if that rifle had been designed such that you
4 could open the bolt and unload the rifle without pushing the
5 safety to the fire position, that the rifle could have been
6 unloaded on that occasion without having it discharged?

7 MR. HUEGLI: Objection. We are now asking the witness to
8 assume where we have a gun that is loaded, you push the safety
9 forward to the fire position; and the second portion of the
10 question is asking whether it could be unloaded with the safety
11 on.

12 It's a compound question that is completely confusing.

13 THE COURT: I'll have to hear it.

14 (The reporter reads the last question.)

15 THE COURT: The objection is sustained.

16 MR. CHAMBERLAIN: Just for clarification, is that as to
17 form, Your Honor?

18 THE COURT: Yes.

19 Q. (By Mr. Chamberlain) Let me try to rephrase the
20 question, Mr. Stekl. I want you to assume that the person
21 handling Exhibit 2 on October 27, of 1979, was approaching the
22 rifle for the purpose of unloading it. All right. That that
23 was his intent. And assume the rifle was loaded. Assume it
24 was cocked. By that, I mean the bolt had been cocked and
25 closed, and the rifle was in the on-safe position. Assume that

1 in attempting to unload the gun, the gun owner then grasped
2 the bolt handle, tried to open the gun to unload it, could not
3 do so, because of the bolt lock feature.

4 Assume that he then pushed the safety from the on-
5 safe position to the off-safe position and the rifle discharged.

6 Would you agree with me that if that rifle on that
7 date did not have a bolt lock, the person, in trying to unload
8 that gun, never would have reached the point where he had to
9 touch the safety; and, therefore, the gun would not have
10 discharged?

11 A. I'm still confused on that one.

12 Q. All right. I'll read it exactly as I put it to you
13 at page 63 of your deposition, taken last August.

14 (Reading:) Question: I have given you
15 some facts and assumptions that the person
16 handling this Model 700 in October of '79, and
17 by this Model 700, I mean Exhibit 2, the person
18 was approaching it for the purpose of unloading
19 it, and the gun was loaded; it was cocked and
20 was on safe. I want you to also assume that
21 it was moved from the safe position to the fire
22 position it discharged; assume those facts. If
23 this Exhibit 2 had been designed as such that
24 you could open the bolt without pushing the
25 safety to the fire position, this rifle could

1 have been unloaded on that occasion without having
2 it discharge. That is true or not--

3 MR. HUEGLI: Your Honor--

4 Q. --and your answer was yes.

5 Do you remember being asked that question and giving
6 that answer?

7 MR. HUEGLI: Your Honor, I might point out to the Court
8 that is the same question. I might point out for the Court,
9 when this deposition was taken, I posed the same objection to
10 the form of the question that I posed to the Court, that the
11 Court has sustained.

12 MR. CHAMBERLAIN: Well, I think the objection goes to
13 whether or not this witness is capable of answering it, and he
14 demonstrated in his deposition that he is.

15 MR. HUEGLI: As Mr. Chamberlain knows, when we object to
16 the form of the question in discovery depositions, the witness
17 is allowed to answer even over the objection. In the trial
18 courtroom, they are not.

19 THE COURT: The objection is sustained.

20 MR. CHAMBERLAIN: Thank you. I have no further questions.

21 CROSS-EXAMINATION

22
23 BY MR. HUEGLI:

24 Q. Mr. Stekl, I think the jury would be interested in
25 you telling them some of your background in your handling of

1 firearms and your work at Remington.

2 Would you please tell the jury when you started to
3 work at Remington and what you did when you first started to
4 work there and how you arrived at your position you are
5 currently employed at.

6 A. Okay. I started in October of '67; and for the first
7 eight or nine months, I worked in the Research and Measurement
8 Lab, making electronic measurements of various ballistic
9 functions, gun functions, and things of that nature.

10 Then, right after that, I went to work in the
11 Custom Firearms Department, doing development work on our
12 target rifles, particularly our bench rest target rifles. I
13 worked at that for, oh, golly, five, six, seven years.

14 Right after that I was made supervisor or Foreman,
15 let's say, of the Bench Rest Bullet Production Area. This was--
16 we actually manufactured the bullets to be used in bench rest
17 target shooting. I was on that job for two years, possibly.

18 And then from there, I went in to my present job, and
19 I started that in February of '79.

20 Q. Thank you. Mr. Stekl, Remington Firearms Company
21 has produced over the years literally millions of rifles and
22 shotguns of various kinds and makes; is that true?

23 MR. CHAMBERLAIN: Object as leading. No foundation. I
24 don't know what the source of that information is.

25 THE COURT: It is leading, but I take it it's preliminary.

1 MR. HUEGLI: Truly preliminary, yes.

2 THE COURT: It's overruled.

3 THE WITNESS: Yes, we have.

4 Q. (By Mr. Huegli) In your job currently did you
5 receive complaints specifically on the Remington 700; is that
6 all you do for a living?

7 A. No.

8 Q. Maybe you can tell us, Mr. Stekl, what the purpose
9 of the Firearms Return Gun Committee was, its purpose and who
10 sits on that committee, how does Remington set it up?

11 A. Well, basically, it's made up of personnel from our
12 Research and Development Division, from our Processing Engineer
13 Division.

14 Of course, I'm on it, being in Product Services, and,
15 basically, we want to see the problem areas, find what they
16 are, you know, resulting from the use of our products.

17 Our engineers are interested in the problems that
18 people say they are having. That is our process people.

19 Naturally, I'm interested in it, because my basic
20 job is working on a resolution of problems.

21 Q. Now, Mr. Chamberlain has introduced so the jury can
22 hear several pieces of testimony from individuals as well as
23 introduced some Gun Examination Reports that were produced by
24 Remington that were recorded that you had in your office, or,
25 at least, in the building there at Remington; is that correct?

1 A. That's correct.

2 Q. The Court directed that we introduce those documents;
3 is that correct?

4 A. Yes.

5 Q. Okay. And were you responsible for compiling those
6 documents and digging them out of various portions of Remington
7 Firearms Factory, so you could send those to Mr. Chamberlain?

8 A. That's right. That's part of my duty.

9 Q. And to the best of your knowledge, is that how he
10 received the names and phone numbers of these individuals that
11 he has used in developing recorded depositions?

12 A. Yes.

13 Q. Now, when the Firearms Gun Committee gets a gun in,
14 do all of you folks sit down in the room and look at the
15 firearm and use your combined knowledge to determine what did
16 or did not happen?

17 A. We attempt to, yes.

18 Q. Now, is Mr. Linde at any time on the committee?

19 A. Not since I've been on it.

20 Q. Do you have engineers from his department who are on
21 the committee?

22 A. Yes, yes.

23 Q. Now, I'd like to--

24 If the clerk would hand you Exhibit No. 23. This is
25 a Gun Examination Report that Mr. Chamberlain offered into

1 evidence and has been admitted.

2 Do you have that before you?

3 A. Yes, I have it.

4 Q. Before we look at that, I'd like to ask you some
5 preliminary questions. In the last three years, according to
6 your records, you received 49 complaints from individuals who
7 own the 700 that complained the gun went off when they pushed
8 the safety forward; is that correct?

9 A. Yes.

10 Q. And during that period of time, you examined each one
11 of those rifles; you have got the rifle and you looked at it
12 and sent a response back?

13 A. The committee has, yes.

14 Q. Okay. Now, was the examination that the committee
15 undertook in those instances the same as the examination that
16 was undertaken of Mr. Boudreau's rifle in this lawsuit; was
17 it the same detailed examination, extensive?

18 A. No, not really.

19 Q. For instance, in those examinations, when you drop
20 the trigger out of the gun to look at it, do you tear the
21 trigger mechanism apart to see what is inside the casing of
22 it?

23 A. No, we do not completely disassemble the trigger
24 mechanism, no.

25 Q. Now, taking a look at Exhibit 23, if you will, I'd

1 like to refer you to some questions about that exhibit.

2 In this particular exhibit, the complaint was that
3 the gun will discharge when the safety is released; is that
4 correct?

5 A. That's right.

6 Q. All right. Now thank you, John.

7 Now, would you tell the jury whether that gun, when
8 you got it back, was in the same condition it was when it left
9 the Remington Firearms Factory, referring to the bottom portion
10 of that document.

11 A. No, it was not.

12 Q. What did the owner of that gun, what did the owner of
13 that gun do to it?

14 A. According to the report--

15 MR. CHAMBERLAIN: Well, I'll object. No foundation. He
16 does not know what the owner did.

17 Q. (By Mr. Huegli) What was done to the gun?

18 MR. CHAMBERLAIN: Same objection.

19 THE COURT: Wait a minute. There is no pending question.

20 Q. (By Mr. Huegli) I mean, by the examination of that
21 rifle, can you tell us if someone, be it the owner or some
22 third party, did something to that rifle after it left
23 Remington which caused the problem that you found?

24 A. Yes, it was noted that the trigger adjusting screws
25 had been altered.

1 Q And was your conclusion, did you come to a conclusion
2 as to whether that problem was caused by something unrelated
3 to what Remington did?

4 A I'm sorry. Please repeat that.

5 Q Well, you note on there that it fails the trick test?

6 A Yes.

7 Q Did you come to a conclusion as to why?

8 A Not really.

9 Q Okay. What, in your opinion, was the condition of the
10 gun as far as the trigger adjusting screw?

11 A Well, they were--

12 Now, the trigger pull was within our specifications,
13 but the other ones had apparently been altered, being the sear
14 engagement, and the other, but there is no specific, no
15 determination as to which screws were altered.

16 MR. HUEGLI: I've got another one of these, Your Honor,
17 that is not cut apart, and I'm going to introduce it later in
18 this trial, but for the purpose of this witness, I'd like to
19 show him--

20 MR. CHAMBERLAIN: I have no objection to that coming in
21 now, if you would like.

22 MR. HUEGLI: I'm not going to offer it now.

23 THE COURT: There would be no reference to it by exhibit
24 number.

25 MR. HUEGLI: No, I understand.

1 Q (By Mr. Huegli) Is that a trigger assembly?

2 A Yes.

3 Q And it is sealed on this side; is that correct?

4 MR. CHAMBERLAIN: Well, Your Honor, I have an objection.
5 If he's going to discuss it and show it to the jury, I'd like
6 it in evidence so we can use it as well.

7 THE COURT: The objection is sustained.

8 MR. HUEGLI: Well, I'll get one that is not cut up and
9 introduce that.

10 Q (By Mr. Huegli) Are the trigger assemblies sealed;
11 they are not something that you can take apart with a screw-
12 driver?

13 A No, they are riveted and welded.

14 Q All right. I'd like to call your attention to Exhibit
15 40. This is another complaint by a customer that their gun
16 went off, as Mr. Chamberlain stated.

17 Do you have that before you?

18 A Yes, here it is.

19 Q Would you tell me whether that gun was in the same
20 condition when you got it back as when it left the Remington
21 Firearms Factory?

22 MR. CHAMBERLAIN: May I have a question in aid of
23 objection, Your Honor.

24 THE COURT: Yes.
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QUESTIONS IN AID OF OBJECTION

BY MR. CHAMBERLAIN:

Q. Mr. Stekl, how do you know what condition any particular gun is in when it leaves Remington's hands? I understand you know their general practice, but how do you know what condition a particular rifle is in?

A. Well, whose question do I answer first?

Q. (By Mr. Chamberlain) Mine.

A. In this particular case, I know that it was different when it came back than when it left, because there was renewed--

Q. Wait a minute. My question is: How do you know what condition it is in when it leaves Remington's hands; you know what their specifications call for, but how do you know on a particular gun what the condition is?

A. I know what the sealant is that we put on our adjusting screws.

Q. You are assuming that the gun was manufactured according to Remington specifications?

A. Yes.

MR. CHAMBERLAIN: My objection, Your Honor, is, counsel is asking this witness to describe the difference of the gun at the time of the examination versus an earlier time that has not been established that he knew what the condition was on the earlier date.

1 THE COURT: Well, my recollection may be different from
2 yours, and I thought he was asking him whether he knew, and let's
3 go back to the question and see.

4 MR. HUEGLI: I'll rephrase the question for purposes of
5 this objection.

6 THE COURT: All right.

7 Q (By Mr. Huegli) Mr. Stekl, based upon your experience
8 working at Remington for the last decade plus, do you know when
9 a rifle leaves our factory, a 700, has sealant on the trigger
10 adjusting screws when it goes out the door?

11 A Yes, it does.

12 Q What color is it?

13 A It's clear yellowish, clear to clear.

14 Q On Exhibit 40 did it come back to you with the same
15 sealant on it?

16 MR. CHAMBERLAIN: Same objection. Again, he's testifying
17 what is usually done, no showing what was done on this
18 particular gun, no firsthand knowledge for him to draw a
19 comparison from.

20 THE COURT: It's overruled.

21 Q (By Mr. Huegli) Please answer the question. Mr.
22 Stekl, did this gun come back in the same condition it was
23 when it left the factory?

24 THE COURT: No, that's not the question.

25 MR. HUEGLI: The question--

1 THE COURT: Wait a minute. The court reporter will read
2 the question.

3 (The court reporter reads the question previously
4 ruled upon by the Court.)

5 THE WITNESS: No, it did not.

6 Q. (By Mr. Huegli) What color was the sealant?

7 A. Red.

8 Q. What are Remington's specifications for trigger pull
9 on that rifle?

10 A. Three pounds to five pounds.

11 Q. What was the pressure pull on that trigger when you
12 got it back?

13 A. Two-and-a-half.

14 Q. Did that lead you to any conclusion whether the gun
15 had been adjusted after it left the factory?

16 A. Yes.

17 Q. Had it?

18 A. Yes.

19 Q. Mr. Stekl, out of the million plus rifles that we
20 produced of this particular kind, we have evidence that these
21 49 complaints, in some of those cases, you have told the owner
22 that they probably pulled the trigger; is that your opinion
23 here today as well?

24 A. Yes.

25 Q. And some of those cases, you have indicated that

1 something else may have happened. For instance, it had been
2 adjusted outside of the factory specifications; that may have
3 contributed, is that correct?

4 A. That is correct.

5 Q. Are there any instances that you simply cannot
6 explain?

7 A. Yes.

8 Q. When you get these guns back, you say you don't tear
9 the trigger apart, sometimes you replace the trigger; is that
10 correct?

11 A. That is right.

12 Q. Now, I'd like to call your attention to the rifle
13 in the lawsuit, which is-- is not the same as--

14 It's different from these rifle problems.

15 If I might approach the witness with this gun, Your
16 Honor?

17 THE COURT: Yes.

18 MR. HUEGLI: Which one is it?

19 MR. LINDE: Third one over on the left there.

20 Q. (By Mr. Huegli) I'd like you to take a look at
21 Exhibit 2, Mr. Stekl, and when you examined this rifle with Mr.
22 Martin, did it appear to you to be in approximately the same
23 condition as it is today?

24 A. Externally, yes.

25 Q. Okay. And have you had a chance today to open that

1 rifle up and look inside to see if anybody has cleaned it?

2 A. No.

3 Q Now maybe you can show the jury-- we have talked
4 about the trick test many, many times, and I would like you to,
5 if you would, to step down from the witness stand, go in front
6 of the jury, and explain to the jury how Remington Firearms
7 examines a rifle in relationship to the trick test. Show them
8 what the trick test is and show the jury whether that gun can
9 be tricked.

10 THE COURT: Where do you want to be?

11 MR. CHAMBERLAIN: I just want to be able to see what he's
12 doing.

13 THE COURT: That's all right.

14 THE WITNESS: Basically, the trick test amounts to closing
15 the bolt, pulling the safety all of the way back, then the
16 safety is put in a position midway between the fire and safe
17 position; then the trigger is pulled, released, and the safety
18 is released.

19 If the gun, if any gun, fails the trick test, the
20 firing pin would have fallen. This gun did not fail the trick
21 test. It stayed and remained cocked.

22 Q (By Mr. Huegli) In your experience, has, if you are
23 able to trick a rifle once, in your experience, are you able
24 after a certain number of tests to trick a rifle again?

25 A. Yes.

1 Q In other words, a rifle that can be tricked doesn't
2 happen just once and never happen again in the life of that
3 rifle, if it can be tricked?

4 A No, because it's a part position situation, and it's
5 not a transient condition that comes and goes. It's either
6 there, or it isn't.

7 Q Thank you, Mr. Stekl. You had an opportunity, did
8 you not, to examine this rifle with Mr. Martin, who is sitting
9 in the back of the courtroom, back East?

10 A Yes.

11 Q Were either you or Mr. Martin able to cause that gun
12 to discharge in that examination as Mr. Chamberlain wants this
13 jury to believe?

14 A No.

15 Q To the best of your knowledge, do you know of anybody
16 who has ever looked at that rifle who has ever been able to
17 duplicate that event?

18 MR. CHAMBERLAIN: Object to the form of the question.

19 THE COURT: Be more specific.

20 MR. CHAMBERLAIN: It's his witness. I don't think he's
21 entitled to lead him.

22 THE COURT: It's overruled.

23 Q (By Mr. Huegli) Please answer the question.

24 A Please repeat it.

25 Q Do you know of anybody who has ever examined this

1 rifle, of all of the experts that we have hired, or anybody
2 else, that has been able to duplicate this event?

3 A. No, I don't.

4 Q. You had a chance to examine the rifle and look inside
5 the trigger at one time, did you not?

6 A. Yes.

7 Q. Did you see inside the trigger whether or not it was
8 clean or dirty?

9 A. No, it was dirty. There was an accumulation of
10 something in there.

11 Q. Okay. Now, I'm not--

12 I don't want to ask you a question about the other
13 complaints that we have had. I want to direct this question
14 only to the lawsuit in this courtroom today and that rifle.

15 A. Okay.

16 Q. Based upon your experience in examining the rifles
17 at Remington, do you have an opinion whether or not the
18 accumulation of dirt or grease in this gun had anything at all
19 to do with this accident?

20 MR. CHAMBERLAIN: Object to the form of the question.
21 No foundation laid that he has that expertise in that area;
22 has not been established the condition of the rifle on the
23 date that he examined was the same as the condition of the
24 rifle on the date that the accident occurred.

25 THE COURT: Overruled.

1 Q (By Mr. Huegli) Go ahead.

2 A Please repeat that question.

3 THE COURT: She'll read it.

4 (Court reporter reads the question as directed.)

5 THE WITNESS: No, I don't think it did. It did not have
6 an effect.

7 Q (By Mr. Huegli) Mr. Stekl, in your opinion, can you
8 tell the jury from what you have heard and from the facts that
9 you have heard in this trial, as well as your detailed
10 examination on at least two occasions of this particular
11 rifle why the rifle went off in Mr. and Mrs. Boudreau's home
12 and shot Teri See?

13 MR. CHAMBERLAIN: Same objection, no foundation as
14 previously stated.

15 THE COURT: Overruled.

16 THE WITNESS: Well, based on our examination of the gun,
17 it could not be made to trick or fire under release of the
18 safety.

19 And in my opinion, the rifle fired because the
20 trigger was pulled with the safety in the fire position.

21 MR. HUEGLI: Thank you very much.

22 MR. CHAMBERLAIN: I have a brief redirect. Do you want me
23 to do it now?

24 THE COURT: Yes.

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REDIRECT EXAMINATION

BY MR. CHAMBERLAIN:

Q Mr. Stekl, let's go back to Exhibit 23. Do you have that in front of you?

A Yes, I do.

Q That's the Gun Examination Report on the gun returned from Mr. G.A. Hernandez, correct?

A Yes.

Q And that's the gentleman whose deposition was read yesterday?

A Um-hm.

Q Now, you pointed out that that gun had the trigger adjusting screws seal broken?

A Yes.

Q But there was, was there any indication in this report that any of the measurements that those are controlled by, those trigger adjusting screws, were outside of Remington specifications?

A No. The only parameter that is listed is the trigger pull at three-and-a-half pounds, and that is within our specifications.

Q On Exhibit 40, do you have that in front of you?

A Yes.

Q There, pointed out that your examination, or

1 Remington's examination indicated that the trigger pull, the
2 number of pounds that it takes to pull the trigger was light;
3 by that, I mean it was a half pound below Remington's specifica-
4 tions; correct?

5 A. Yes.

6 Q. Does that have any effect on whether or not the gun
7 would fire when the safe is released?

8 A. It could have. Depending on the other adjustments.

9 Q. Well, assuming everything else is within the
10 specifications.

11 A. It's possible, I suppose.

12 Q. Earlier I asked you to list all of the reasons that
13 you were aware of that the gun, Remington Model 700, would fire
14 when the safety was released and you didn't mention the light
15 trigger pull, did you?

16 A. We mentioned trigger adjusting screws.

17 Q. Not light trigger pull, you did not mention that, did
18 you?

19 A. Not specifically.

20 Q. Earlier today, or last August when your deposition was
21 taken?

22 A. Not specifically.

23 Q. And you told Mr. Huegli that over the years that
24 Remington has sold millions and millions of Remington Model
25 700's?

1 A. Not millions and millions of 700's. I don't know
2 how many we have of a particular model, but it's a lot of them,
3 millions of rifles totally.

4 Q. Oh, now is that how you understood his question?

5 A. The way I interpreted it.

6 Q. How long has the Remington Model 700 been sold?

7 A. I think it was introduced in '62 or '63.

8 Q. So it's been sold for 20 years?

9 A. Yeah.

10 Q. And when Mr. Huegli was pointing out that only 49
11 complaints had been received, in fact, that is just 49
12 complaints in three-year period, because of Remington's
13 document destruction program; isn't it?

14 A. That's right.

15 Q. There could have been 49 complaints three years before
16 that and 49 the three years before that, couldn't there?

17 A. I can't comment on that.

18 Q. Could have been more, could have been less than that?

19 A. It's possible.

20 Q. And we will never know, because those documents don't
21 exist.

22 Do you know how many Model 700's have been manu-
23 factured and sold by Remington?

24 A. No, sir, I don't.

25 Q. Now, you explained to the jury--

1 May I approach the witness, Your Honor?

2 THE COURT: Yes.

3 MR. CHAMBERLAIN: We need Exhibit 2 again.

4 Q. (By Mr. Chamberlain) You explained to the jury how
5 Remington performed its trick test. I understand that, and I'm
6 going to ask you a question about that.

7 The so-called trick test, you have the safe balanced
8 between safety position and fire position?

9 A. That's right.

10 Q. And when the safety is in that position, the trigger
11 can be pulled, because there is no trigger lock?

12 A. That's right.

13 Q. Just as it can be when it's in the pull safe position?

14 A. Um-hm.

15 Q. Now, when you are-- when the gun is experiencing the
16 fire-when-safe-released problem, the gun has been cocked, put
17 on safe, full safety, something or someone puts pressure on the
18 trigger, right?

19 A. Um-hm.

20 Q. The gun is put off safe, and the gun is--

21 A. That's right.

22 Q. If the gun is not trickable, and if loaded and
23 cocked and put halfway on safe, as I have done, can you pull the
24 trigger if it's got a gummed trigger assembly, so it stays
25 pulled, the gun will go off when you push the safe to fire?

1 A. The trigger is being held.

2 Q. Even though it's not a trickable gun?

3 A. That possibility exists.

4 Q. So, when the fire when safe is released, a problem,
5 it doesn't matter if that safety starts out in full safe
6 position or so-called in position halfway between fire and safe,
7 functionally, it makes no difference?

8 A. No.

9 Q. That no means you agree with my statement?

10 A. Yes.

11 MR. CHAMBERLAIN: Thank you. No further questions.

12 MR. HUEGLI: Nothing further.

13 THE COURT: All right, sir, that's all.

14 Now, members of the jury, we'll recess until 1:30
15 this afternoon.

16 (Whereupon, this witness' testimony was concluded.)
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1 State of Oregon)
) ss.
2 County of Multnomah)

3 I, Viola Joyner, RPR, do hereby certify that the foregoing
4 pages 1 through 56 are a true and accurate transcription of
5 my stenotype notes as reported at the time and place
6 heretofore indicated in re SEE v. REMINGTON, USDC 81-866.

7 Dated this 3rd day of *June*, 1983, at Portland, Oregon

8

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Viola Joyner

VIOLA JOYNER, RPR
Official Reporter

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