

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.

Held at Remington Arms
Illion, New York
August 16, 1982

DEPOSITION of MARSHALL HARDY, taken
by the Plaintiffs.

APPEARANCES:

BODYFELT, MOUNT, STROUP & CHAMBERLAIN, ESQS.
Attorneys for Plaintiffs
229 Mohawk Building
222 S.W. Morrison Street
Portland, Oregon
BY: PETER R. CHAMBERLAIN, ESQ., of Counsel

MARTIN MURPHY, CSR, P.C.

STIPULATIONS

At said time and place, the following stipulation was entered into by counsel present for the respective parties. It is hereby stipulated and agreed by and between the parties hereto, through their respective counsels, that the deposition of Marshall Hardy, a material witness called for the examination by Plaintiffs may be taken before Lorraine Smith, a Notary Public, at this time and place on oral interrogatories, direct and cross, to be propounded to the Deponent. It is further stipulated that all irregularities as to notice of time and place and manner of taking said deposition are hereby waived, except that each party reserves the right to object at the time of trial to any question or answer but that objections as to the form of the questions or irresponsiveness of the answers are waived unless made at the time of taking said deposition.

MARTIN MURPHY, CSR, P.C.

APPEARANCES: (Cont'd.)

SCHWABE, WILLIAMSON, WYATT, MOORE & ROBERTS, ESQS.
Attorneys for Defendant
1200 Standard Plaza
Portland, Oregon
BY: JAMES HUEGLI, ESQ., of Counsel

ALSO PRESENT:

ROBERT SPERLING, ESQ., Associate Counsel for
Remington

Lorraine Smith,
Reporter

MARTIN MURPHY, CSR, P.C.

INDEX TO EXHIBITS

<u>PLAINTIFFS'</u> <u>EXHIBITS</u>	<u>DESCRIPTION</u>	<u>ID</u>
1	Gun Examination Report	10
2	Gun	42
3	Gun Examination Report Number 62	55
4	Model 700 Remington Field Service Manual	61
5	Gun Examination Report Number 530	71
6	Gun Examination Report	82
7	Gun Examination Report	87

MARTIN MURPHY, CSR, P.C.

MARSHALL HARDY, having been duly sworn by a Notary Public in the State of New York, testified under his oath as follows:
BY MR. CHAMBERLAIN:

Q Mr. Hardy, we have been introduced. My name is Peter Chamberlain. I am an attorney from Portland, Oregon. I represent Mr. and Mrs. See. They are plaintiffs in this lawsuit against Remington Arms Company. This is our opportunity to take your deposition, ask you some questions under oath.

Have you had a chance to have it explained to you what a deposition is?

A I don't understand what the definition is, no.

Q Have you talked to anybody about it?

A I talked to these gentlemen here.

Q And you don't totally understand it?

A I don't know as I do totally understand it.

Q Okay. Let me try to clarify it. If you have a question, you ask me.

You are under oath.

A Right.

MARTIN MURPHY, CSR, P.C.

A Yes.

Q When the deposition is finished, I have the option of having it typed up in a transcript form and may be able to use that information then at the time this case is tried.

A Okay.

Q So it is very important that your answers are truthful and you give a full answer and you do understand my question before answering it. All right?

A Yes.

Q Now, could you state your address, please?

A R.D. 2, West Winfield. That is Chepachet Road.

Q Can you spell that?

A C-h-a-p-a-t-c-h-e-t.

Q And that is in New York?

A Yes.

Q Is that in the City of Iilon?

A I am in the Town of West Winfield.

Q How long have you been employed by Remington Arms?

A Forty-one and a few years -- a few months.

MARTIN MURPHY, CSR, P.C.

Q And you have the obligation to tell the truth, just as though we were in a court of law. The purpose of the deposition is to give me an opportunity on behalf of my clients to discover information from people who are employed by Remington Arms. Okay?

A Right.

Q I am going to ask you a series of questions. If you don't understand my questions, stop me and ask me to restate it. If you feel the need to talk to Remington's lawyers, you are free to go outside the room and talk to them about my question, not for the purpose of figuring out an answer but if you have some problem with the question.

Again, if you have any problem with the way I have phrased it, I will be glad to restate it. So feel free to interrupt.

It is important that your answers be clear and noes and not uh-huhs or huh-uhs. Your answers must be made out loud and not with a nod of the head, because the court reporter is taking down everything we say. Okay?

MARTIN MURPHY, CSR, P.C.

Q What is your age?

A Sixty-one.

Q What is your present position with Remington?

Q What does that entail?

A More or less, trouble shooting on firearms that are being assembled daily.

Q Newly manufactured ones?

A In the manufacturing part, right.

Q So your job right now is to make a correction on a gun that has been manufactured if there is a problem with it?

A My job is to define what is wrong with a gun, why it doesn't work and get back to the other engineers with what is wrong and find out what is wrong.

Q So a gun comes back to you after it has been manufactured and inspected and fails some inspection?

A Not necessarily.

Q How would it come to you?

A On the final assembly, they may have trouble

MARTIN MURPHY, CSR, P.C.

assembling parts. I would be contacted.

Q Have long have you been a senior technician?

A Five years.

Q What was your job before that?

A Final assembler.

Q And that would be just what it says, the last person to work on the gun?

A Right.

Q How long were you doing that?

A Probably thirty years.

Q And how about before that?

A I worked on machining parts before.

Q So most of your career at Remington has been as a final assembler, and the last five years you have been a senior technician?

A Yes.

Q In the prosecution of this lawsuit, one of the things we have done is to ask Remington to provide us with various documents. We have done so, and one of the group of documents they have provided us are a series of documents called Gun Examination Reports.

A I understand that, right.

MARTIN MURPHY, CSR, P.C.

Report is mostly used for the rifles that are returned by customers, for firearms?

Q That is the only time I fill them out, yes.

Q That is the only time?

A Right.

Q Now, I have never filled one out, so I don't know what the process is. Just tell me from your first step how it comes about that you would fill out this form? What happens first?

A (No response.)

Q Do you receive the gun?

A I receive the gun that comes in to Customer Repair. If there was any damaged actions; that is, blowups or personal injuries, well, I fill out the report like that.

Q When you receive the gun, do you receive a copy of the correspondence from the customer?

A Yes.

Q Sometimes those come?

A There is not always correspondence with them, though.

Q There is not always correspondence?

MARTIN MURPHY, CSR, P.C.

Q Can you tell me what a Gun Examination Report is, what its function is?

A Pardon me?

Q Can you tell me what the Gun Examination Report is?

A All I do is a preliminary examination on the gun report.

Q Is that something you do as part of your trouble shooting of new arms?

A Most of those that I get on these reports here are guns that have been sent back in by customers.

Q So if you get a new arm that comes off the line and an inspector tells you, "I can't make it work. Trouble shoot it," for that firearm, you do not prepare a Gun Examination Report?

A That is right. We do not.

Q When you say, then, those are used mostly for guns returned by customers --

A Yes.

Q -- what other uses do they have?

A I don't understand you.

Q You just a minute ago, said the Gun Examination

MARTIN MURPHY, CSR, P.C.

A That is right.

Q Sometimes you will receive the gun from the gunsmith rather than the actual user?

A I would say sometimes the gunsmith sends them in to the customer repair department. We get them that way, yes.

Q And sometimes they are directly from the customer?

A To the best of my knowledge, yes.

Q Okay. So you receive the gun. You receive, at least sometimes, some correspondence. What do you do next?

A And I proceed to make out the preliminary report there.

MR. CHAMBERLAIN: Okay. Maybe we had better mark that as an exhibit.

(A Gun Examination Report was marked as Plaintiffs' Exhibit 1 for identification.)
BY MR. CHAMBERLAIN:

Q I am going to hand you, Mr. Hardy, what has been marked as Deposition Exhibit 1 and ask you some questions about it. That is a Gun Examination Report

MARTIN MURPHY, CSR, P.C.

that you prepared?

A Yes.

Q And your name appears where, on the "Checked by" section?

A Yes.

Q Is that your handwriting?

A That is my printing, right.

Q Your printing, okay.

MR. HUEGLI: What number is that?

MR. CHAMBERLAIN: That is 599.

BY MR. CHAMBERLAIN:

Q Which part of this form did you fill out?

A I fill out the P.I. and the gun number and the model, gun condition, the R. number -- that is the repair number -- outside work and the date and fired ammo type and the address from whom it is from and gun number, the code and the calibers, as far as the proof, inspection and test, the heading, the breech opening, recoil shoulders, chamber and components condition.

Q That is down to about halfway through the form?

A As far as I go is to the customer's complaint.

MARTIN MURPHY, CSR, P.C.

A Yes.

Q Model, the gun model number, right?

A Correct.

Q Now, the next line, you put in the general condition?

A It is really visual, what I see, if it has been mishandled.

Q You are looking at the stock and the barrel and the various components without disassembling it?

A Yes.

Q What is the "R. number"?

A The, I believe, repair number that comes in the factory.

Q That would be some paperwork given to you with the gun?

A Yes.

Q You pick that number off of the paperwork?

A Yes.

Q Now, "Outside work," is that again based upon your visual examination?

A Yes.

Q And if you have an ADL, it doesn't come with

MARTIN MURPHY, CSR, P.C.

Q You fill that part out?

A Right, if there is a complaint.

Q Right. You do not fill out the last two sections, then?

A No, I don't.

Q What is the next to the last section?

A You have, "Incident." From complaint on down, I do not fill out.

Q Okay. Starting at the top, do you know what the "P.I." means?

A Personal injury.

Q In other words, you are making an indication there as to whether there has been a complaint of personal injury?

A If the letter or my correspondence states there is a personal injury, I have to state yes or no, whatever I can decipher from that.

Q The number to the right of the words, "Gun Examination Report," is that number a sequence number?

A Yes.

Q This is number 599. The next gun you get in and examine, you would write down 600?

MARTIN MURPHY, CSR, P.C.

a sling?

A That's right.

Q If you see a sling on it, you so note?

A Right.

Q And it doesn't come with a scope?

A Right.

Q So if you have a scope on it, you write that down?

A Yes.

Q Incidentally, the gun does come with a scope mounting screw?

A It comes with scope mounting screws ready to mount the scope on.

Q This date you put on the upper corner, right-hand side, is that the date of your examination?

A That is the date it is received in Customer Repair, to my knowledge.

Q Would that be the same day you receive it?

A No. I may not receive it for some time.

It all depends on their back orders.

Q Okay. How long would it be, weeks or months?

A Well, it could be two or three weeks probably.

MARTIN MURPHY, CSR, P.C.

Q So again, that number would come off of the repair order?

A Right.

Q That date, I mean?

A Yes.

Q "Gun number," is that the serial number?

A Yes. That is visual. I read that on the gun and what the customer has, too.

Q Right on the barrel?

A Yes.

Q The next line below, "Gun number," says, "Code." This particular one says, "ER - 10-78." What does that mean?

A That is the date and month -- year and month of manufacturing.

Q How do you determine that?

A We have a code that we use for that.

Q Is that a code that is inherent in the serial number?

A (No response.)

MR. HUEGLI: Would it be helpful if you showed him on the gun where it is?

MARTIN MURPHY, CSR, P.C.

A I surmise that whoever stamped that stamp on there -- the "R" should be where the "E" is, and the "E" should be where the "R" is. But I don't remember that.

Q So maybe on this particular number, you had some problem figuring out what the manufacturing code was?

A I may have.

Q Just to the left of the code are the words, "Proof, inspection and test." There are three entries there. What do those various entries mean?

A The proof on this particular one would be a "B." That is the identification for the man who proofed it.

Q Proofing it is firing it with an unusually high-powered load?

A Yes.

Q And "B" is the code for the employee that did that test?

A Yes.

Q He takes a little stamp and puts that on the barrel again?

MARTIN MURPHY, CSR, P.C.

THE WITNESS: This is the black powder we use for the code down through.

BY MR. CHAMBERLAIN:

Q Like the "E" is the month and the "R" is the year, '68?

MR. HUEGLI: It is a code that comes out of a book. It is printed on the rifle, but the code comes out of a separate book.

MR. CHAMBERLAIN: Just so we don't have any unpleasantness, I will mark this.

THE WITNESS: It should be on the left-hand side. This right here is "XI." What year and month it is, I don't know.

BY MR. CHAMBERLAIN:

Q From that "XI," you would determine the month and year of manufacture?

A Right.

Q You don't know them offhand, but you would return to a book?

A Right.

Q What does the word, "Reversed" mean above the ER number?

MARTIN MURPHY, CSR, P.C.

A That should be on there, too.

Q And how about, "Insp," what is that, final inspection?

A Yes. That is the final inspector's stamp.

Q And the "U" refers to some Remington employee?

A Yes.

Q And the last word, "Test," is what, gallery test?

A Yes.

Q What is that?

A Functioning test target.

Q What does "79" mean?

A That pertains to the tester.

Q That is his code?

A Yes.

Q I suppose if I looked at this barrel long enough, I suppose I would find the ones that apply to this gun.

A You would find the XI on the left side. You would find the final assembler's -- the final inspector's stamp. 26 is the final assembler.

Q Okay. And there is something like a little

MARTIN MURPHY, CSR, P.C.

bell.

A That is the final inspector.

Q That is his code letter?

A Right. So I have to decipher that. Some of them are character stamps, so we have to get into a number that corresponds with that character stamp.

Q On the right-hand side of the barrel, there are some more marks.

A That is usually test and target. You have a proof on this side, the Rep. The V-shape is the magniflux testing, the endurance of the barrel. The Rep, that is the proof stamp. This one here has a "Z" ahead of it. That identifies who put that stamp on. The next one is the tester for functioning.

Q That is the gallery test?

A Yes.

Q What does "Rep" stand for?

A I don't know. It is a proof stamp.

Q Okay. I will get this out of here now.

Once you receive the rifle, you fill out two-thirds of this form. What happens to it next?

A After I fill out two-thirds of this form, I

MARTIN MURPHY, CSR, P.C.

a stamp on each rifle.

I don't know if that is a trade secret or not.

MR. SPERLING: I think he is reluctant to talk about it too deeply. We don't let the book out. It is a book that by two letters, you can find the month and the year of manufacture.

BY MR. CHAMBERLAIN:

Q Now, continuing with the various entries on this Gun Examination Report, the word, "Heading," do you see that?

A Yes.

Q What does that mean?

A "Heading" is checking the depth of the chamber to the face of the bolt with the bolt open or closed. We have plugs that we put in there. We check the heading by closing the bolt to measure between the face and the extreme shoulder of the shell so we know we don't have an oversized chamber.

Q And the words, "Breech opening," what does that refer to?

MARTIN MURPHY, CSR, P.C.

send it over to the committee. They check it to determine what the malfunctions are or if the gun is -- what it has been rejected for.

Q Rejected?

A Well, whatever it was sent in for. If someone said it fired when on safe, we would do some checking on that part and check to see if it does what the customer says it does.

Q A minute ago, you made reference to something. I think you said, "the black powder we use for the code." What is that?

A We have a book. It has a code in it. That is where we get our code marks to know when it is made. We use it -- possibly I shouldn't say anything about the code as far as black powder.

Q I am not sure of what you mean when you say, "black powder."

A That is where we get our initials for our months and dates, for our years and our months.

Q From a book that you call, "Black Powder?"

MR. HUEGLI: It is an in-house code, Peter, that Remington has developed. There is

MARTIN MURPHY, CSR, P.C.

A That shows me I have no parting between the breech ring and the barrel or the breech ring and the barrel extension, no seams in there or it ain't broke, or nothing.

Q So it is a visual inspection --

A Yes, of the three pieces.

Q -- that you do by opening the bolt?

A You can look at the gun without opening it, or anything.

Q "Recoil shoulder?"

A Recoil shoulders are where the bolt is blocked up in the receiver to make sure there is no distortion in them.

Q What about the chamber?

A See what the finish of the chamber is, where the stays fit in.

Q There, you do have to open the bolt to look?

A Yes.

Q And below that is the word, "Test." On this particular Gun Examination Report, there is a blank. What is that part of that form for?

A If the committee that this gun was sent to

MARTIN MURPHY, CSR, P.C.

later on should want me to do some testing through some unknown reason, I would probably have to put in what I would test there, whether I took it into the gallery and tested it, or what.

Q You would put the results there?

A Put the results there.

Q Now, the word, "Complaint," all you do there is repeat what the gun owner told you? Is that right?

A What it says on my report, yes.

Q Okay. And that information is not verified when you put it down there?

A No.

Q It is just what you have been told?

A Right.

Q On this form, there are one, two, three, four places for someone to indicate an approval, I guess. Would that be the committee you referred to?

A Yes.

Q What is the name of that committee?

A Definitely, I can't tell you the name. I think it is the Damaged Action Committee, I think they call it.

MARTIN MURPHY, CSR, P.C.

A We have Jerry Burns.

Q How about "J.A.S.?" That is J.A. Stekl, isn't it?

A That could be, yes.

Q Now, you said the gun is forwarded to this committee for their review or analysis or testing. Do you get involved with the committee in that process?

A No.

Q Your only further role, then, would be if they give you the gun back and said to do this test or do that test?

A That is right.

Q And are you ever in a position to fill out this bottom part of the form, the section entitled, "Comments?"

A No.

Q Have you ever heard of something called the "trick test?"

A Yes.

Q Have you ever done that on Remington 700's that have been returned by customers or dealers?

A Yes.

MARTIN MURPHY, CSR, P.C.

Q You say, "Damaged?"

A Damaged Action Committee.

Q It is not the Product Safety Subcommittee, is it?

A That doesn't ring a bell with me.

Q Have you ever heard of that committee?

A No.

Q Looking at this Exhibit 1, can you recognize the initials of the committee there?

A I see Jerry Hill.

Q What are his initials?

A That is the "J.H.," number one. I don't know the next two. I think the bottom one is -- I don't know that one either, I guess.

Q How about the, "J.W.B.," do you know that one?

A No.

Q "J.A.S.?"

A J what?

Q "J.W.B.?"

A I don't know what the middle initial is. We have Jerry Burns.

Q Do you know J.B.?

MARTIN MURPHY, CSR, P.C.

Q How long have you been doing that test? By that, I mean, how long ago was the first time that you may have been called to perform it?

A Oh, I wouldn't know. It seems like it has been forever.

Q Let's see if we can break it down here a little bit.

You have been a senior technician for about five years?

A Yes. I would say probably that would be the proper time.

Q You certainly weren't doing it before then, right?

A I believe not.

Q Incidentally, how many of these complaints, Gun Examination Report-type complaints, do you get per week?

A Per week?

MR. HUEGLI: Are you talking with respect to the 700?

MR. CHAMBERLAIN: Right. Now I am just talking about G.E.R.'s in general.

MARTIN MURPHY, CSR, P.C.

MR. HUEGLI: G.E.R.?

MR. CHAMBERLAIN: Gun Examination Reports.

MR. HUEGLI: How many guns does he examine a week? Is that the question? Or how many reports are filed?

MR. CHAMBERLAIN: Let me rephrase it.

BY MR. CHAMBERLAIN:

Q You testified that your involvement and your reason to fill out one of these reports is that you get a gun and you get a letter of complaint and you get a work order, right?

A Right.

Q How many of these do you get in an average week right now?

A Maybe four.

Q Four per week. And taking you back to the time period, well, over the last five years, has that increased or decreased?

A I think it has decreased.

Q It has decreased. So four years ago, you were getting more than four per week?

A Yes. I would say probably.

MARTIN MURPHY, CSR, P.C.

Q Now, let's narrow the question a little bit. I am interested particularly in the Remington Model 700. Of all the complaints that you get and you have gotten over the last five years, what percentage would you say relate to the Model 700?

MR. HUEGLI: If you have done any studies on that.

You want him to tell you a percentage?

MR. CHAMBERLAIN: If he knows.

THE WITNESS: I don't know as I know.

MR. HUEGLI: There may be some other people, Peter, that may be better able to answer that.

BY MR. CHAMBERLAIN:

Q You certainly, in the last three years, have gotten more than a dozen Model 700's back, right?

A Oh, yes.

Q If I told you that Remington Arms has provided for us Gun Examination Reports relating to the 700's for the last three or four years and that I have forty-eight such reports, that wouldn't surprise you, would it?

MARTIN MURPHY, CSR, P.C.

Q What would you guess you were getting back then, four years ago?

A See, we get these in spurts. It all depends when the hunting season is, I guess.

MR. HUEGLI: I guess I would object to the form of the question, asking him to really guess, taking a complete guess without knowing.

MR. CHAMBERLAIN: I did use the word "guess."

BY MR. CHAMBERLAIN:

Q I don't want you to guess. Anytime I ask you a question and you think it is a guess, you let me know and I will change the question. What I am after is your best estimate of how many of these were coming in, say, when you first started out as a senior technician. You have told me there were more than there are today. Were there twice as many? Were you getting one a day?

A I would say I was getting three or four a week, at the most.

Q So it really hasn't decreased or increased?

A It has decreased. We are building a better gun.

MARTIN MURPHY, CSR, P.C.

A No, that wouldn't.

Q Okay. Now, most of the reports that I have received do have your name listed as the person by whom the gun was checked. Some of them have the name of a Mr. Jay or Joy.

A Joy.

Q Is he your subordinate?

A No.

Q Is he your co-worker?

A Yes.

Q Is there any particular reason that you know of why most of these, at least the ones relating to the 700's, are checked by you and why only a few of them are checked by Mr. Joy?

A This is my job and this is not his. He fills in for me, I would say.

Q Okay. It is not because of some expertise with the 700 that you fill out the Gun Examination Report for that gun?

A No.

Q By the way, for the reporter's benefit, it helps if you wait until I finish my question before you

MARTIN MURPHY, CSR, P.C.

start to answer, because she has a hard time getting us both.

A Yes.

Q And I will try to start my question after you finish, too.

When you perform a trick test on a Model 700 that has been returned to Remington Arms with a complaint that the gun fires when the safe is moved from the on safe to the fire position, is that a test you do automatically, or is that something that the committee tells you to do?

MR. HUEGLI: I think I object to that.

It is a compound question. There has been no foundation laid as to what Mr. Marshall's -- Mr. Marshall Hardy's understanding of a trick test is under any circumstances.

MR. CHAMBERLAIN: Well, he said he knows what it is and he has done it on 700's.

MR. HUEGLI: That is right. There has been no foundation established that his interpretation of a trick test is the same as anybody else's, nor has he even said what a

MARTIN MURPHY, CSR, P.C.

A The trick test is pulling the safety back to where it will stand in the most stable position toward the on safe and without returning forward, pulling on the trigger and pushing the safety off and see if it fires.

Q When you say pulling the safety back to the most stable position, do you mean all of the way back to on safe?

A The most forward null position, we call it. We pull it back to the most forward null position, which means it will stay in that position without flying back ahead.

Q Can you show me? Do I need to have the bolt in?

A Yes.

Q Can you show me what you mean by that, what you just described?

A Now it stays. It is in between the two.

Q It is in between safe and fire?

A Yes.

MR. HUEGLI: That is the trick test?

THE WITNESS: As far as I am concerned,

MARTIN MURPHY, CSR, P.C.

trick test is.

MR. CHAMBERLAIN: You are not directing him not to answer, are you? I am going to get to that.

MR. HUEGLI: Well, only as a courtesy, if you could rephrase the question in such a way that it is not that he has performed a trick test and other people have performed a trick test. I think you may find that the tests that are performed by various people in terms of the words "trick test" are all different.

MR. CHAMBERLAIN: Okay.

MR. HUEGLI: I think you may find that. That is why I am concerned about the question.

MR. CHAMBERLAIN: Okay. I have no objection to following along at that direction.

BY MR. CHAMBERLAIN:

Q You have performed trick tests on 700's, right?

A Yes.

Q Tell me what your understanding of the trick test is.

MARTIN MURPHY, CSR, P.C.

that is the trick test. That is the most forward null position. That is the most critical condition.

BY MR. CHAMBERLAIN:

Q When you say, "most forward null position," what you are telling me is, you are putting the safety somewhere between safe and fire and the null position describes it as being between safe and fire?

A Yes.

Q And the most forward null position would be the first forward position you can get that safety to balance at?

A Yes.

Q Now, you have told me that you have been performing that test on the Model 700 for five years off and on?

A Yes.

Q Who told you to do that?

A I believe it is in our process, our regular process for final assembly.

Q That is part of the final assembly inspection?

A It was at one time. I am not sure if it is the

MARTIN MURPHY, CSR, P.C.

same or not.

Q Okay. Now, I want to concentrate on the Model 700's that have been returned to Remington where the user or the gunsmith that has returned it has complained that the gun fires when the safety is moved from the on safe to the fire position. I want to talk about why you were doing trick tests on those guns.

A Well --

MR. HUEGLI: I don't think there is a question to you.

BY MR. CHAMBERLAIN:

Q Well, why were you doing trick tests on those guns?

A I wouldn't be doing it on those guns. We do a trick test on a regular final assembly job. I wouldn't be doing it on those.

Q Pardon me?

A I wouldn't be doing it on those repair guns.

Q Okay. So you are telling me you have never done a trick test on a Model 700 gun that was returned by the customer with a complaint like I have described?

A No. I can't say that, because I would normally.

MARTIN MURPHY, CSR, P.C.

Q You are saying the trick test -- the 700 is the only gun you do the trick test on?

A As of now, yes.

Q As of now.

A As of now, to my knowledge, it is the only one we do it on, right.

Q What is a vinch test, do you know?

A No.

Q You said you couldn't begin to guess the number of Model 700's that you have received back that you did the trick test on where the gun failed it. Did you make any inquiry or any examination of the gun to figure out or to try to determine where the gun was failing that test?

A No.

Q Do you know from any source whatsoever why the guns were failing the trick test?

A Yes.

Q Why were they failing it?

MR. HUEGLI: I object to the form of the question as being general and assuming that all guns failed the test for the same reason.

MARTIN MURPHY, CSR, P.C.

It is my characteristic to try it.

Q Normally, it is your characteristic to try it?

A Right.

Q Have you ever received back a Model 700 from a customer who has complained that the gun fires when the safety is moved from the safe position to the fire position, performed the trick test as you described it and had the gun fail the trick test?

A Yes.

Q When or how many times?

A I couldn't begin to guess.

Q More than once?

A Yes.

MR. HUEGLI: You are talking about only the 700's?

MR. CHAMBERLAIN: The 700's.

THE WITNESS: The 700 is the only one we do trick tests on.

BY MR. CHAMBERLAIN:

Q Let me make sure we are not mixed up here. I am not talking about the 600.

A No.

MARTIN MURPHY, CSR, P.C.

MR. CHAMBERLAIN: Well, he said he knows.

Let's find out.

MR. HUEGLI: Is the answer going to be the same for every gun you have ever looked at?

If it is, answer the question in that fashion.

If it is not --

THE WITNESS: I don't understand what you are getting at.

MR. CHAMBERLAIN: All right.

BY MR. CHAMBERLAIN:

Q You said you have received back some 700's. You have done what you described as a trick test on those guns. Those guns failed the trick test and that you have information as to why those guns failed the trick test. Is that right?

A Yes.

Q Why do those guns fail the trick test?

A It could be altered someplace in the line after it has left us.

Q For instance, the trigger adjustment screws?

A Possibly.

Q What are some other possibilities?

MARTIN MURPHY, CSR, P.C.

MR. HUEGLI: I think I am going to object to the form of this question once again. First of all, it is asking for what the possibilities are, and the first question asked Mr. Hardy what he discovered in his examination of the guns and what was determined to be the cause of the guns failing the trick test. I am not sure if we are asking him two questions and getting him confused. I think he said he has examined them and he has made a determination from whatever source why they fail the trick test. Are we asking him to give us possibilities or actually why they failed the trick test?

MR. CHAMBERLAIN: Well, I asked him, what are the different reasons that you are aware of, and he gave me one, which is adjustment of the trigger screws. I am saying now, are there other reasons that he is aware of.

MR. HUEGLI: ~~Good, not possibilities but~~ reasons he is aware of.

THE WITNESS: Due to wood swelling, due

MARTIN MURPHY, CSR, P.C.

A -- it is ready to go.

Q Did you hear that noise?

A Yes.

Q What was that?

A The trigger connector has popped out under the sear and it is going to fire when you unloosen that safe.

Q Instead of my finger holding it, with the wood swollen and that being held, it would stay in that same position that it is in now?

A Yes, very apt to.

Q And if I pushed it with my thumb, it would fire?

A Yes. It could be a bent arm.

Q Okay. Are you giving me now another reason?

A I would say another reason. Another reason would be a bent safety arm.

Q Have you seen that on the Model 700?

A Yes.

Q Have you seen the swollen wood?

A Yes -- not yes. I wouldn't say -- I wouldn't say if the wood was swollen, but I have seen

MARTIN MURPHY, CSR, P.C.

to alteration on the safe.

BY MR. CHAMBERLAIN:

Q Let's take that.

A Binding at the safe so it rubs on the wood, or someone could have altered the safe.

Q When you say wood swelling and binding on the safe, is that one reason as opposed to more than one?

A Wood swelling would bind the safe.

Q Let's take them one at a time. Wood swelling?

A Yes, and binding the safe.

Q I am going to do something here, and you tell me what I am doing. I have just cocked the gun, right?

A Yes.

Q I am going to pull the safety back a little bit, but it keeps popping to the fire position, right?

A That should be -- it should do that.

Q If the wood just to the right of the safe swelled up, would that tend to prevent it from popping back to the fire position?

A Yes.

Q If I hold it there and pull the trigger --

MARTIN MURPHY, CSR, P.C.

it rub on there.

Q In other words, you would see a mark on the wood where the safety was rubbing, where it was swollen?

A When it was working, it was rubbing due to whatever.

Q At the time of your examination, had the wood shrunk and pulled away from the safety?

MR. HUEGLI: That is assuming he said it was swollen in the first place. He has not so testified that it was swollen.

BY MR. CHAMBERLAIN:

Q Where did you get the information that the wood had swollen on the stock of certain Model 700's?

A I guess that is my own thought. I am of the opinion if it did not swell, it could hold it. I have seen it rubbing on the safety arm. It could be from a bent safety arm.

Q Take a look.

MR. CHAMBERLAIN: Why don't we mark that as an exhibit.

(A gun was marked Plaintiffs' Exhibit 2 for identification.)

MARTIN MURPHY, CSR, P.C.

BY MR. CHAMBERLAIN:

Q I will hand you what has been marked as Plaintiffs' Exhibit 2 and ask you to take a look at the wood area near the safety and tell me if you see any evidence of rubbing there or binding on the wood.

A From what I can see here, I see no rubbing.

Q Okay. In your experience, could that wood gain some moisture and swell up?

MR. HUEGLI: On this gun?

MR. CHAMBERLAIN: In the Model 700.

THE WITNESS: It should be ample clearance there.

BY MR. CHAMBERLAIN:

Q It could gain moisture and swell up, couldn't it?

MR. HUEGLI: I object to the form of the question as leading.

BY MR. CHAMBERLAIN:

Q Well, could it or could it not?

MR. HUEGLI: I object to the form of the question. Under what conditions, in a house, under a river? Do you want him to tell

MARTIN MURPHY, CSR, P.C.

Q Lubrication?

A Ours or theirs?

~~Q Pardon me?~~

~~Q They could put something in there for lubrication.~~

Q A gun owner might do that?

A Yes.

Q It is foreseeable that the gun owner would do that, isn't it?

A I beg your pardon?

Q It is foreseeable that a gun owner would do that, isn't it?

MR. HUEGLI: Objection. It asks for an opinion.

BY MR. CHAMBERLAIN:

Q You can answer.

~~Q Yes.~~

Q Have you ever given your deposition before today?

A No.

Q Have you ever testified in any court case?

A No.

MARTIN MURPHY, CSR, P.C.

you under what conditions it could swell up?

BY MR. CHAMBERLAIN:

~~Q~~ Well, Mr. Hardy, assume there we are talking about the Model 700, Exhibit 2. We are talking about its use in a rainy climate. We are talking about its use in October of 1977, which is assuming that is the rainy season. Assume the gun has been used all day outside under those circumstances. Could the wood of this gun, the stock and in particular the area around the safety, gain some moisture and therefore swell up?

MR. HUEGLI: I object to the form of the question, improper foundation.

BY MR. CHAMBERLAIN:

Q You can go ahead and answer it. He is doing that for the record.

A I believe there is plenty of clearance there. I don't think it could make a safety defective.

Q Your answer is you don't think it could?

A I don't think it could.

~~Q Okay. Could dirt or debris get in there.~~
In your experience?

A Possibly.

MARTIN MURPHY, CSR, P.C.

Q Now, in your work with Remington, have you had occasion to be involved in any aspect of the Model 600?

A Yes.

Q Manufacturing?

A Final assembly, yes.

Q How about since you became a senior inspector?

A A little bit.

Q Are you familiar -- and I want to talk about the 600 as it existed before its major recall. When I say "its major recall," do you know what I am talking about?

A Yes.

Q I want to talk about the 600 as it existed before that. I would like some information about how it is the same as or different than the Model 700 as being manufactured back in '76. In particular, I am interested in the trigger mechanism, the safety and the bolt. Can you tell me, first, is the trigger mechanism on the 600 as it existed before the recall the same as the trigger mechanism on Exhibit 2?

MR. HUEGLI: Objection. It has not been established that Mr. Marshall Hardy is a

MARTIN MURPHY, CSR, P.C.

design engineer nor has any engineering background in relation to whether or not the designs would be the same with the guns, tolerances, specifications, and things of that nature. There has been no foundation as to that.

BY MR. CHAMBERLAIN:

Q Do you know?

A No.

Q You don't know. How about the safety mechanism, do you know?

MR. HUEGLI: Same objection.

THE WITNESS: Pardon me?

BY MR. CHAMBERLAIN:

Q Mr. Hardy, he has to make the objections so that someday down the road he will be able to argue this to a judge.

MR. HUEGLI: I am objecting because you are not an engineer. I am objecting because you do not know the specifications.

MR. CHAMBERLAIN: But that does not affect my right to ask you.

MARTIN MURPHY, CSR, P.C.

it in the most forward null position on each rifle, pulling the trigger on each rifle, putting it to the fire position and having each rifle go off?

A Yes.

Q Do you know why or have you been told why the 600 failed the trick test?

A Do I know why?

Q Right. They recalled thousands of firearms.

I assume they all had a common problem. Do you know what that problem was?

A No.

Q You don't know?

A No.

Q No one has ever told you?

A No.

Q Do you know of any problem?

A No.

Q Are you aware of any other lawsuits pending -- Strike that.

Are you aware of any other lawsuits against Remington Arms involving the Model 700?

A I know they have them, but I haven't been

MARTIN MURPHY, CSR, P.C.

BY MR. CHAMBERLAIN:

Q Your answer about the safety is?

A No.

Q You don't know, okay. How about the bolt?

MR. HUEGLI: Same objection.

THE WITNESS: No.

BY MR. CHAMBERLAIN:

Q Have you ever performed a trick test on a 600?

A Yes.

Q When you talk about the trick test on a 600, is that the same test you have already described for us?

A Yes.

Q And have you ever had a 600 fail the trick test?

A Yes.

Q Is the mode of failure that you have experienced with the 600 the same as with the 700?

A Pardon me?

Q When a 600 failed a trick test, is it the same as the 700 failing it? Is it a matter of putting

MARTIN MURPHY, CSR, P.C.

involved in them.

Q You don't know any of the names of the plaintiffs?

A No.

MR. HUEGLI: For the record, Peter, I think it is only fair that you explain to Mr. Hardy that just because they filed a lawsuit against Remington doesn't mean it is against the 700. I am not sure this witness really understands your question. I think he knows there are other lawsuits, but I don't know if he knows which are 600's, which are 222's.

MR. CHAMBERLAIN: Okay. Off the record.

(A discussion was held off the record.)

BY MR. CHAMBERLAIN:

Q Are you aware that the Model 700 has gone through a design change in the last year?

A A design change to what effect?

Q So that you can unload the gun with the safety on?

A Yes.

MARTIN MURPHY, CSR, P.C.

Q Were you involved in that in any way, in the decision to make that change?

A No.

Q Can you tell me how they effected that change?
How is the gun different today?

A With the new designed safe, you can unload the gun with the safe on.

Q Does the safe look the same as this one?

A Visually from the outside, you wouldn't know the difference.

Q Is there still a bolt lock?

A There is no bolt lock.

Q Can you picture the trigger in your mind?

A Yes.

Q Okay. So can I. As I recall, if you push the safe to the fire position on the right-hand side of the trigger, there is a piece of metal that goes up and fits into a slot in the bolt?

A Yes.

Q What did they do, cut that off?

A Yes.

Q Okay. Do you know why that change was made?

MARTIN MURPHY, CSR, P.C.

Q Let's make sure I understand, then. The only two bolt-action rifles that Remington presently produces are the 700 and the 788?

A Yes.

Q And both those rifles today could be unloaded without taking the safety to the fire position?

A Yes.

Q Are you familiar with any other manufacturer's rifles that can be unloaded without taking the safety and putting it in the fire position, bolt-action rifles?

A No.

Q Does that mean you don't know?

A I don't know whether there are other rifles, no.

Q Now, am I correct that the 788 used to be manufactured, like the 700, such that you could not unload it without putting the safety in the fire position?

A I remember that.

Q Do you know when they changed that?

A No.

Q It was before they changed the 700, wasn't it?

A Yes.

MARTIN MURPHY, CSR, P.C.

A No.

Q No one ever told you?

A No.

Q What other bolt-action rifles does Remington make beside the 700?

A We make a 600, 788. We are not making the 600 now, I don't believe. You have got the pistol. The pistol is a bolt-action XP 100.

Q So you have the 788 and the 700. How about the 721?

A 721 -- the 700 took the place of the 721.

Q When was that?

A Gosh, I don't know.

Q In the last five years, wasn't it?

A No.

Q Longer?

A Longer than that.

Q Okay. And then there was what else, the 722, the 725?

A Yes.

Q And those are both gone?

A Yes.

MARTIN MURPHY, CSR, P.C.

Q Do you know somebody named Jim Martin?

A Yes.

Q Who is that?

A He is -- I don't know what his title is. He works out in R & D, Research and Development.

Q He is a Remington employee, then?

A Yes.

Q Do you know how long he has been in that position?

A No.

Q As I understand it, on the Model 700 as manufactured back in '76, when the safety was in the safe position, you could still pull the trigger. The gun wouldn't fire, assuming everything was operating right, but you could pull the trigger, right?

A Right.

Q Is that still true, do you know?

A Yes.

Q Did you have anything to do with the writing of the owner's manual for the Remington 700?

A No.

Q How about the field service manual?

MARTIN MURPHY, CSR, P.C.

A No.

Q I notice on one of those Gun Examination Reports that some testing had been done on the rifle in a cold room, zero degrees Fahrenheit. Were you involved in that or have you ever been?

A I don't recall that.

MR. CHAMBERLAIN: Okay. Why don't we mark that.

(A Gun Examination Report was marked Plaintiffs' Exhibit 3 for identification.)

BY MR. CHAMBERLAIN:

Q I am handing you what has been marked as Deposition Exhibit 3, a Gun Examination Report, number 62. Is that one that you checked?

A Yes.

Q Okay. And the complaint there was that -- what was the customer's complaint?

A Weapon discharged when safety was pushed to off safe position.

Q And the part under "Comments" appears to be a different handwriting. Is that your handwriting?

A No.

MARTIN MURPHY, CSR, P.C.

that. I don't know.

Q In other words, grease is thicker at lower temperatures, more viscous?

A Yes.

Q But you don't know what the results of those tests were?

A No.

Q Is it Remington's policy to have you -- Let me rephrase that.

Does Remington ask you to fill out one of these Gun Examination Reports every time you get a rifle in with a complaint?

A Yes.

Q Do you do so?

A Yes.

Q Do you fill it out at the same time that you are given the information or given the gun? You mentioned sometimes there is a few day's delay.

A As soon as I get a chance, I would fill it out.

Q That is a part of your regular course of your job?

A Yes.

MARTIN MURPHY, CSR, P.C.

Q Do you know whose that is?

A No.

Q Under "Comments," the third line down, "R & D confirmed malfunction at low temperature test, zero degrees fahrenheit." Have you ever heard of that being done on one of those rifles?

A Yes.

Q Other than this incident?

A I don't know what this one was, as far as I can remember it.

Q Tell me what you know about testing of rifles at low temperatures.

A Nothing.

Q A minute ago I asked you if you knew of the testing being done at low temperatures, and I thought you said yes.

A I know it has been done, but I don't know how or what.

Q You don't know why they did it, or do you know why?

A I would imagine to see if they could find a malfunction due to coagulating grease, or something like

MARTIN MURPHY, CSR, P.C.

Q When you put information in there, do you make an attempt to put the information in accurately?

A Yes.

Q Truthfully?

A Yes.

Q Incidentally, do you know what this A means in Deposition Exhibit 1 up at the top?

A No.

Q I am not sure I need to mark this as an exhibit, but one of the other documents that Remington has provided to us are the supporting documents that relate to each of these Gun Examination Reports. On the one that relates to Exhibit 1, which is a report numbered 599, here, the second document we have says, "Receiving and Estimate Report." Is that the work order that you were referring to earlier, the R number?

A The R number does have an estimate on them.

Q Okay. What I am asking you is, you said that you get a rifle and you usually get a complaint letter. You also get a work order and that the R number is the work order number?

A Yes.

MARTIN MURPHY, CSR, P.C.

Q Is this the work order?

A I have never seen one of those before.

Q Is this the form you get?

A No.

Q It is not, all right. What happens to your work order after you receive it? What do you do with it?

A It goes with the gun to the committee.

Q Do you ever see it again in the normal course?

A Normally, no.

Q Do you know what the initials P.E. & C. stand for?

A What is the C. for? Process Engineering and what, Control? I do not know.

Q Do you ever get an opportunity to talk to any of these customers over the telephone?

A No.

Q Do you ever correspond with them, write letters?

A No.

Q Has anyone ever told you or have you ever determined on your own that any Model 700 rifle has failed the trick test because of a gummed up trigger

MARTIN MURPHY, CSR, P.C.

A No.

MR. CHAMBERLAIN: Okay. We might as well mark this.

(A Model 700 Remington Field Service Manual was marked Plaintiffs' Exhibit 4 for identification.)

BY MR. CHAMBERLAIN:

Q Okay. Mr. Hardy, I have Deposition Exhibit 4, which is a field service manual for the Remington 700. Have you seen that before?

A No.

Q You never have, okay. Have you seen drawings of the trigger assembly?

A Yes.

Q Take a look at page 11 of that. I will get my copy here.

Now, this picture in the middle on the right-hand side, does that represent, to your knowledge, the trigger mechanism when the safety is in the fire position, if you know?

A Does that when the safety is in a ready-to-fire position?

MARTIN MURPHY, CSR, P.C.

assembly?

A Yes.

Q Have you determined that on your own or has someone told you that?

A I have seen it.

Q Okay. When I use the words "gummed up," tell me what you mean by that.

A (No response.)

Q In other words, what does it take to gum up a trigger assembly?

A I would say that the lubricant in there has jelled and the parts don't slide or work the way they should.

Q So when the -- Strike that. Let me think here a minute.

MR. CHAMBERLAIN: Off the record.

(A discussion was held off the record.)

BY MR. CHAMBERLAIN:

Q The sear safety cam sits on the trigger connector when the gun is in the fire position?

A When it is in the fire position?

Q Right.

MARTIN MURPHY, CSR, P.C.

Q Right.

A Yes.

Q And the picture right above it in the upper right-hand corner, does that represent where the sear safety cam should be when the safety is on safe?

A Yes.

Q Okay.

MR. HUEGLI: Just a minute. You are referring to the words "sear safety cam," with the line?

MR. CHAMBERLAIN: Right, this right here. It gets kicked up when the safety goes on. See that space there?

MR. HUEGLI: Okay.

BY MR. CHAMBERLAIN:

Q Now, you have told me that you have seen trigger mechanisms that were gummed up with jelled lubricants, right?

A Yes.

Q On those guns, they failed the trick test?

A Yes.

Q Okay. Can you explain to me physically how

MARTIN MURPHY, CSR, P.C.

that happens? Why don't you look at Exhibit 4 there. I think that might help you.

MR. HUEGLI: I object to the form of the question as lacking in foundation. Furthermore, I object to the form of the question on the basis that it assumes that all answers are going to be the same in all cases.

MR. CHAMBERLAIN: Okay. I am just looking for a little education at this stage.

MR. HUEGLI: I realize that, but I am objecting to the form.

MR. CHAMBERLAIN: Okay.

BY MR. CHAMBERLAIN:

Q Go ahead and answer.

A You had better ask me again.

Q Okay.

MR. CHAMBERLAIN: You can have your objection.

MR. HUEGLI: Same objection.

BY MR. CHAMBERLAIN:

Q What I want to know is how jelled lubricants in the trigger mechanism can cause a gun to fail the

MARTIN MURPHY, CSR, P.C.

question as leading.

THE WITNESS: Yes.

BY MR. CHAMBERLAIN:

Q Would it be more apt to cause a problem if, in addition to the lubricant that is present, if that lubricant had attracted dust, dust particles or dirt particles?

A Yes.

Q When the rifle is in the assembled condition, are there places where dirt or dust enters the trigger mechanism?

MR. HUEGLI: Objection. It asks for an opinion.

BY MR. CHAMBERLAIN:

Q Well, looking at the gun, can you see anywhere where dust or dirt might enter the trigger mechanism?

A Yes. It is possible.

Q Through the area in front of the trigger and the area behind the trigger, for example?

A Yes.

Q And could it also enter through that little slot where the safety --

MARTIN MURPHY, CSR, P.C.

trick test.

A If the safe is on and the trigger has been pulled, this will move ahead away from the sear safety cam. This trigger will move that way. The safety connector and the trigger will move. If it is gummed or jelled in here, the safety will hold it up under here. As soon as you pull the safe off, there is nothing to hold it here. It is ahead. It will drop.

Q So it is the presence of that jelled lubricant in the safety that, in effect, would be holding the sear safety cam in the up position?

A It would be holding the trigger in the forward position.

Q And the sear safety cam is spring loaded, so when you take the safety off, it drops down and fires the gun?

A Yes.

Q Okay. Would you agree with me that a rifle in cold temperature is more apt to have the problem you have just described because the cold temperature would make the lubricant more viscous?

MR. HUEGLI: I object to the form of the

MARTIN MURPHY, CSR, P.C.

A Yes.

Q -- slides back and forth?

A Yes.

Q I am asking for a factual bit of information. That does lead to the trigger, right?

A Yes.

Q And if you -- Well, let me ask you this.

You see this little hole here where the bolt goes?

A Yes.

Q When it is closed, does that lead to the trigger?

A Yes.

Q Now about when the bolt is open? Say you were loading or unloading, does that also lead to the trigger?

A It is not too apt to, no.

Q It is not apt to, okay. Now about if you have the bolt out? That is the sear safety cam right there? Isn't it?

A Yes.

Q And that leads to the trigger, doesn't it?

MARTIN MURPHY, CSR, P.C.

A Yes.

Q And this, to my right of the sear safety cam, is another little hole. Does that lead to the trigger mechanism?

A Yes.

MR. HUEGLI: May I see that for a second?

THE WITNESS: The bolt release is stuck.

MR. HUEGLI: Okay.

BY MR. CHAMBERLAIN:

Q Did you examine this rifle when it entered, when it came into Remington Arms for inspection?

A I don't know.

MR. HUEGLI: I think I object to the form of the question. This rifle has never been here before today.

MR. CHAMBERLAIN: You are right.

Off the record.

(A discussion was held off the record.)

MR. CHAMBERLAIN: Let's go back on and go back to the gun here.

BY MR. CHAMBERLAIN:

MARTIN MURPHY, CSR, P.C.

A No.

Q Or the safety?

A No. The safety is in the fire control.

Q It is?

A It is on it, yes.

Q So when you take this rifle and remove the stock and pull off that little clip on the trigger and pull out these two pins and drop the trigger mechanism, you have removed the fire control?

A Yes.

Q Here is another one of these Receiving and Estimate Reports. I understand that you don't prepare those and you haven't seen them, but do you see anything on there to indicate who does prepare them, initials, or maybe you know?

A I believe I have seen these. It looks different after it has been mimeographed. I think this estimate comes with my gun when I get it.

Q You say that it does come with your gun?

A I believe that comes with it. They estimate down to here.

Q Is any of that your handwriting?

MARTIN MURPHY, CSR, P.C.

Q Taking a look at it, I don't want you to disassemble it, but tell me, would you characterize that as clean or dirty?

MR. HUEGLI: Objection. It asks for an opinion.

THE WITNESS: It is dirty.

BY MR. CHAMBERLAIN:

Q Have you ever seen a dirty gun before?

A Many.

Q Many. Is it unusual for a gun owner to let it get into that condition, in your experience?

A Stupid.

Q Okay. It is stupid, all right. But is it unusual?

A No.

Q Okay. What is the part of the gun known as the fire control? Is that another specific part?

A It is the whole trigger mechanism.

Q Does that include more than just the trigger mechanism itself?

A No.

Q It doesn't include the bolt or the chamber?

MARTIN MURPHY, CSR, P.C.

A On this?

Q Right.

A No.

Q After these rifles are brought in with a complaint, you fill out your Gun Examination Report. You forward the gun and the information to the committee. Does the gun come back to you for repairs before it is sent back to the customer?

A No.

Q It does not, okay. Who would make those repairs?

A I surmise it would go back to Customer Repair. We have a customer repair department.

Q Is that something within Remington?

A Pardon me?

Q Is that a department within Remington Arms?

A Yes.

Q Who is in charge of that department?

A Dennis Santana.

MR. CHAMBERLAIN: S-a-n-t-i-n-a.

BY MR. CHAMBERLAIN:

Q What is follow-down? Is that when you close

MARTIN MURPHY, CSR, P.C.

the bolt and the gun goes off?

A Yes.

MR. CHAMBERLAIN: Let me see if I can get the right copy here. Here it is.

(A Gun Examination Report was marked Plaintiffs' Exhibit 5 for identification.)

BY MR. CHAMBERLAIN:

Q I will hand you Deposition Exhibit 5, which is a Gun Examination Report, number 530. That is one you filled out, isn't it?

MR. HUEGLI: All of it, the whole report?

MR. CHAMBERLAIN: Well, everything except maybe the bottom line.

THE WITNESS: Yes.

BY MR. CHAMBERLAIN:

Q Do you recognize those initials after the bottom line?

A I think they are Jerry Hill's.

Q Under the test line, you put, "Checked fire pin protrusion," and then, "Okay." What does that refer to?

A The distance of the firing pin. Let's see.

MARTIN MURPHY, CSR, P.C.

cam when this is broken if it happens to fall off the trigger. There is nothing to hold the sear safety cam up, and the gun would have to fire.

Q Okay. Are you aware of any fire controls on Remington 700's where the tolerances of the trigger and/or the sear safety cam or the trigger connector were out of specifications such that they caused the gun to fail the trick test?

A Yes.

Q On guns that you have examined?

A No.

Q Where do you get your awareness, then?

A On the final assembly end.

Q Just new guns?

A New guns.

Q How about ones returned with customer complaints?

A No.

Q Okay. Do you know whether or not Remington retains the old trigger assemblies that they have removed from repaired Model 700's?

A No.

Q No, you don't know?

MARTIN MURPHY, CSR, P.C.

It was the protrusion of the firing pin from the bolt in the fire down position.

Q On page 11 of Exhibit 4, is that on there or not on there?

A Not on there, no.

Q You probably don't recall this very one, but do you remember looking at that document while you performed that test on this particular rifle as compared to the numerous other Model 700 Gun Examination Reports?

A No, I don't.

Q And down underneath the section entitled "Component condition," you put, "Trigger connector broken." Is this the little bar there?

A Right. Probably it may have said on the work order, gun was firing when bolt was closed. This shows I had a broken connector.

Q When the trigger connector is broken, does it cause it to hang up on the sear safety cam?

A No. It should drop away is all.

Q When it drops away, the gun wouldn't fire at all. Is that true?

A There is nothing then holding the sear safety

MARTIN MURPHY, CSR, P.C.

A I don't know.

Q Have you ever seen rust on the sear safety cam, trigger, trigger connector on the Model 700's that you have examined?

A Yes, I have seen rust.

Q On articles that were returned from customers?

A I don't recall.

Q How about rust anywhere else in the trigger assembly on rifles returned from customers?

A I can't recall.

Q If there was a rust buildup between the sear safety cam and the trigger connector, would that cause the rifle to fail the trick test?

MR. HUEGLI: I object to the form of the question as indefinite and lacking in proper foundation as to the type of gun, amount of rust and specifications involved.

BY MR. CHAMBERLAIN:

Q ~~What I am getting at is this.~~ You said that lubrication or grit in that area could cause a hangup. I am asking for general information now. Could rust cause the same thing?

MARTIN MURPHY, CSR, P.C.

MR. HUEGLI: Same objection.

THE WITNESS: Yes.

BY MR. CHAMBERLAIN:

Q Have you ever seen that?

A Yes. I have saw rust.

Q On rifles returned by customers?

A No.

Q Where was it?

A I have seen rusted parts in the pan before we assemble.

Q Does Mr. Joy fill in for you when you are on vacation usually?

A Yes.

MR. HUEGLI: By the way, he is scheduled next.

MR. CHAMBERLAIN: Okay.

BY MR. CHAMBERLAIN:

Q Do you know whose handwriting this is, the highlighted part here?

A No.

Q Can you read what it says in the highlighted part?

MARTIN MURPHY, CSR, P.C.

Have you ever had a Remington 700 that you have done the trick test on be inconsistent in its passing or failing of the trick test? In other words, have you ever experienced a rifle where it passed at one time and failed at another?

A No.

Q To your knowledge, could the problem that causes the gun to fail the trick test be an intermittent problem?

MR. HUEGLI: I think I would object to the form of the question.

BY MR. CHAMBERLAIN:

Q Can you answer that?

A No.

Q You have never seen it be an intermittent problem?

A No.

Q Okay. Have you ever performed the trick test more than once on any gun?

A Yes.

Q Earlier we were playing around with Exhibit 2 here, the rifle. You remember I held the safety in one

MARTIN MURPHY, CSR, P.C.

A Gun fires when safety is pushed off. Fails trick test.

MR. HUEGLI: Something trick test. There is a word in there. Can you read it? Do you know what it is?

MR. CHAMBERLAIN: No. I was curious because the front page says it passes the trick test.

MR. HUEGLI: That may have been the complaint. It fails the trick test. I don't know. The guy that wrote that, I believe, is going to be here.

THE WITNESS: It says it passed the trick test there, on the first page.

MR. CHAMBERLAIN: Yes.

THE WITNESS: It says, "Unable to duplicate customer's complaint." But I got it to fire.

BY MR. CHAMBERLAIN:

Q You got it to?

A No. Complaint is fired -- it is the customer's complaint. That is right.

Q All right. Well, we will go on.

MARTIN MURPHY, CSR, P.C.

position, pulled the trigger, pushed the safety to the fire position, and you could hear the trigger firing.

A Yes.

Q Is that normal for this rifle?

A You can do that to any rifle, make it do that by holding it.

Q By holding it in a position between fire and safe?

A The gun really is not on safe.

Q If it is really not on safe, why doesn't it fire when I pull the trigger?

A You are holding that safe to make it do that.

Q Okay. If I cock the gun like I just did and put it on safe and I pull the trigger, nothing happens.

A Right.

Q If I put it on fire, pull the trigger, it will fire, right?

A Yes.

Q Now, my question is, why is it that when I hold it partway between fire and safe and pull the trigger, you heard a noise?

A Your safe is not fully engaged or even on a

MARTIN MURPHY, CSR, P.C.

null safe. You haven't picked your safe up. You are right on the very front end of it.

Q The very two corners?

A Right on this corner here. And your safe is where -- I don't know if it has it in here. I never saw this before.

Q Identify what page you are on, if you would.

A This page 6. This corner right here.

Q And that is page 6 of Exhibit 4?

A This contact and this contact is not made full.

Q That is the sear safety cam to the what?

A Safety assembly.

Q Actually, would it be the safety assembly or the trigger connector?

A The safety assembly and this are not fully engaged under here. They are on the verge of falling off.

Q When the safety is put in the fire position, it does fall off, right?

A Right.

MR. HUEGLI: Off the record.

MARTIN MURPHY, CSR, P.C.

THE WITNESS: When I write up a report and send it to the committee, I usually write things I think have happened to the gun. I put it on that. It is a scrap paper, like.

BY MR. CHAMBERLAIN:

Q Is that an intraoffice or intracompany memo, basically?

A More or less, yes.

Q For each gun that you receive and forward to the company, do you prepare one of those?

A Yes.

MR. CHAMBERLAIN: Okay. Jim, this is the only one I have.

MR. HUEGLI: For this one? These don't have that?

MR. CHAMBERLAIN: Right. This is out of there, but this is the only one I found that has that.

MR. HUEGLI: Okay.

MR. CHAMBERLAIN: Will you look?

MR. HUEGLI: To see if the original is around?

MARTIN MURPHY, CSR, P.C.

(A discussion was held off the record.)

MR. CHAMBERLAIN: Let's go back on the record.

BY MR. CHAMBERLAIN:

Q Have you ever heard of something called a special test? Is that the name of a test?

A No.

Q Do you know what the letters F.S.R. stand for?

A Yes.

Q What is that?

A Fires when safe is released.

Q Is that a code that is used in Remington?

A Yes.

Q The copy I have here is close to illegible, but can you recognize what that document is? I don't want to know what that one says, but just what it is.

A Yes. I know what that is.

Q Can you tell me?

MR. HUEGLI: This document here?

THE WITNESS: Right.

MR. HUEGLI: Go ahead.

MARTIN MURPHY, CSR, P.C.

MR. CHAMBERLAIN: Yes. From what he just said, there is one of these for each Gun Examination Report. This is number 314.

THE WITNESS: I believe those are not kept. I don't know.

MR. HUEGLI: Well, this is all they sent me on each one of these. They may not keep those, Peter. I don't know. Stahl may be able to tell you. I can't even read that one. Can you see what it says?

MR. CHAMBERLAIN: No.

MR. HUEGLI: This can be off the record.

(A discussion was held off the record.)

MR. CHAMBERLAIN: Let's go back on. Would you mark this?

(A Gun Examination Report was marked Plaintiffs' Exhibit 6 for identification.)

BY MR. CHAMBERLAIN:

Q I will hand you what has been marked as Deposition Exhibit 6, Mr. Hardy, and ask you if you can identify that.

A It is one I wrote up.

MARTIN MURPHY, CSR, P.C.

Q Okay. Now, on this one, did you fill out the part entitled, "Component condition?"

A It looks like I wrote some of it. Somebody added, "Excessive molycoat in action."

Q What is molycoat?

A It is a lubricant we use.

Q Is that a Remington product?

A I don't know. I don't know.

Q Is it some sort of light oil or grease?

A It is a graphite lubricant.

Q Is there a combination of petroleum and graphite in it?

A I don't know.

Q If there was some here in the room and I looked at it, would it look like a dusty material or a greasy material?

A Greasy material, black.

Q Do you know anybody employed by Remington with the initials H.B., a repairman, perhaps?

A I don't know who that is.

Q When you perform the trick test on a rifle, do you do that with ammunition in it?

MARTIN MURPHY, CSR, P.C.

A Yes.

Q By adjusting that screw, you can get that below three and above five, is that right?

A Yes.

Q If that is adjusted below three pounds, is the trigger apt to fail the trick test? Is there any correlation there?

MR. HUEGLI: Do you mean if it was adjusted at zero?

THE WITNESS: There would probably be a limit.

MR. CHAMBERLAIN: Let me try it a different way.

BY MR. CHAMBERLAIN:

Q My question was, under three --

A There would be a limit.

Q Does adjusting the trigger pull screw --

A It forces this back.

Q What back?

A The trigger and the trigger connector back into this position here.

Q So it would increase the amount of overlap

MARTIN MURPHY, CSR, P.C.

A No.

Q To your knowledge, is there any physical reason that the results of the trick test would be different when there was ammunition in the rifle?

A No.

Q No reason?

A No reason.

Q Okay. What is the weight of pull adjustment screw on the trigger assembly on a Model 700?

A What is the weight of pull?

Q Right, adjustment screw.

MR. HUEGLI: Is the question, what is the weight of pull for the adjustment screw?

MR. CHAMBERLAIN: I think it is called the weight of pull.

THE WITNESS: It is the screw that adjusts the heft of the trigger pull.

BY MR. CHAMBERLAIN:

Q So you want to have -- Strike that.

A As I understand it, Remington's specifications call for a trigger pull between three and five pounds in the Model 700?

MARTIN MURPHY, CSR, P.C.

between the sear safety cam and the trigger connector?

A If the screw was backed out where you have maybe a pound pull, you would get less chance of that trigger and trigger connector to retract and get back under its mainstay partway and give it less engagement.

Q I am not sure I understand that. What is the over-travel adjustment?

A Over travel is the distance between the back of the trigger connector and the clearance on that sear safety cam to always insure you that the trigger will travel far enough ahead.

Q Far enough ahead so that the sear safety cam will drop?

A Yes.

Q And fire the gun?

A Yes.

Q Are you familiar with gun safety rules?

A Yes.

Q Is it good practice or bad practice for someone who is handling a gun to -- let's say, he has just put the gun on safe, and he is pointing it away from people. Is it considered good safety practice to

MARTIN MURPHY, CSR, P.C.

then try to pull the trigger to see if it is in fact really on safe?

A In my opinion, the trigger should never be pulled until you want to shoot the gun.

Q How about safety rules? N.R.A., what do they say about that, if you know?

A I would say, as far as I am concerned, the safety should not be touched until you want to kill.

MR. HUEGLI: The safety or the trigger?

THE WITNESS: The trigger. I am sorry.

BY MR. CHAMBERLAIN:

Q Is that based on your feelings or your own experience or something you have read in the safety manuals?

A I believe it is my own.

MR. CHAMBERLAIN: Would you mark this?

(A Gun Examination Report was marked Plaintiffs' Exhibit 7 for identification.)

BY MR. CHAMBERLAIN:

Q Can you identify Exhibit 7, Mr. Hardy?

A Yes.

Q Is that a Gun Examination Report prepared by

MARTIN MURPHY, CSR, P.C.

A It is a Varmint.

MR. HUEGLI: Heavier gauge?

THE WITNESS: Yes.

BY MR. CHAMBERLAIN:

Q When you say "bigger barrel," you mean more metal on it and not the size of the hole?

A Well, it depends on the caliber of it.

Q On Exhibit 7 it says, "Revised." Do you see that?

A I don't know what that is.

Q That is not your handwriting?

A No.

Q Under "Test," it says, "40 rd. test." Is that your handwriting?

A No.

Q Do you know what that is?

A I can vaguely remember doing that for the committee when it is asked for.

Q Doing the test?

A Yes.

Q 40 rd. stands for what?

A 40 round test, yes.

MARTIN MURPHY, CSR, P.C.

you at least in part?

A Yes.

Q Involving the 700 ADL?

A Yes.

Q Incidentally, Remington-Union Arms Co. told me through their answers to questions filed with the court that as far as the trigger is concerned and the safety and the bolts, that the ADL 700 and the BDL and the Varmint are identical. Do you agree with that?

A Yes.

Q When you get one of these reports in, if the gun is a Varmint, would you write down, "Varmint," or would you write down, "BDL," or would you write down, "ADL?"

A If it is a Varmint, I should write that or BDL. I don't know what I do.

Q You would agree with me that the Varmint is a BDL grade of rifle?

A Yes.

Q How is it different, do you know?

A It has a bigger barrel than the Varmint.

Q Exhibit 2 is a Varmint?

MARTIN MURPHY, CSR, P.C.

Q Does that mean actually firing bullets?

A Yes.

Q And then under the "Test sequence," it says, "Load, safe on, jar gun, safe off, fire gun," is that correct?

A Yes.

Q Do you think you did this test? Do you remember?

A I would have to say yes.

Q But you didn't write in the test results?

A No.

Q What do the letters O.K. signify to you, that it passed the test, so to speak?

A I must have gave them information that it had passed, yes.

Q Earlier I asked you if the trick test was done with the ammunition in or not in the rifle. Do you know why in this instance they did a test that involved having shells in the rifle and actually firing it?

A On this particular gun here, it appears that the man says it fired when the safe was released. We tried to make it fire when we released the safe.

Q Well, that is my question. I have forty-eight

MARTIN MURPHY, CSR, P.C.

of these. This is the forty-eighth where the complaint is that the gun fired when the safe was released. But this is the only one I have that indicates a 40 round test was done. Do you know why there is reference to it on this one and not the other forty-seven?

A Apparently, the committee seen something different with this gun than they had the others, and I was asked to do this.

Q Did I ask you who was on the committee already?

A I don't know who is on the committee. Yes, you did.

Q And you don't know who was on the committee three or four years ago?

A No.

Q Do you know any of the committee member's names?

A I know Jerry Hill.

Q And you mentioned Burns?

A And Burns.

Q And Stekl?

A And Stekl.

Q Okay. There is another one.

MARTIN MURPHY, CSR, P.C.

A Yes.

Q Is that a harder metal than the trigger itself?

A Yes.

Q Is that why they use that?

A Yes.

Q So it won't wear?

A Yes.

MR. CHAMBERLAIN: I think I am almost done.

BY MR. CHAMBERLAIN:

Q Why don't you take a look at Exhibit 2 again and in particular at the safety lever. Tell me, based upon your experience with the Model 700, if that safety lever is bent:

A I don't believe it is bent, no.

MR. CHAMBERLAIN: Thank you very much.

I don't have any more questions.

MARTIN MURPHY, CSR, P.C.

MR. HUEGLI: Off the record for a moment.

(A discussion was held off the record.)

MR. CHAMBERLAIN: Let's go back on the record.

BY MR. CHAMBERLAIN:

Q You have identified one more name from the initials on Exhibit 7 there. It is Phil Johnson?

A Yes.

Q From that, you would assume that he is a committee member or at least was in 1979?

A Yes.

Q The drawings that I have of the Model 600 and the Model 700 show the trigger connector, the little C-shaped piece of metal?

A Yes.

Q Is that something that is presently in use on Model 600's and 700's?

A Yes.

Q Do you know how long that has been in use?

A Since Day One.

Q Okay. It has always been part of the gun?

MARTIN MURPHY, CSR, P.C.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

I, MARSHALL HARDY, being duly sworn, hereby state that I have read the above deposition of my testimony in the above-entitled action taken on August 16, 1982, before LORRAINE SMITH, a Shorthand Reporter and Notary Public, at Remington Arms, Ilion, New York, and that the same is true and correct.

Marshall Hardy

Sworn to before me this 6th
day of October, 1982.

Margaret D. Hall

MARGARET D. HALL #4437691
NOTARY PUBLIC, STATE OF NEW YORK
REGISTERED IN HERKIMER COUNTY
MY COMMISSION EXPIRES MARCH 30, 1984

MARTIN MURPHY, CSR, P.C.

C E R T I F I C A T E

I, LORRAINE SMITH, a Shorthand Reporter
and Notary Public in and for the State of
New York, DO HEREBY CERTIFY that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-entitled
matter.

Dated: September 9, 1982

Lorraine Smith

MARTIN MURPHY, CSR, P.C.