

IN THE UNITED STATES DISTRICT COURT

FOR THE STATE OF ALASKA

DANA CAMPBELL and JEANETTE
CAMPBELL,

Plaintiffs,

-vs-

REMINGTON ARMS COMPANY, INC.,
a Delaware Corporation, and
MARK WRIGHT, d/b/a THE
WRIGHT RIFLE,

Defendants.

The Prospect Inn
400 North Prospect Street
Herkimer, New York
November 19, 1986

EXAMINATIONS BEFORE TRIAL of ROBERT B.

SPERLING and JAMES C. HUTTON, taken by the
Plaintiffs, pursuant to Notice.

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INDEX TO WITNESSES

<u>WITNESS</u>	<u>BY MS. MORAN</u>
Robert B. Sperling	4
James C. Hutton	84

INDEX TO EXHIBITSPLAINTIFFS':

	<u>Description</u>	<u>Ident.</u>
1	Minute number 1-1979 of the product safety committee, January 2, 1979	55
2	Minute	69
3	Blueprint drawing	110

ROBERT B. SPERLING, having been first
duly sworn by a Notary Public in the State of
New York, testified as follows:

BY MS. MORAN:

Q Mr. Sperling, what is your full name?

A Robert B. Sperling.

Q Okay. My name is Anna Moran. We were introduced yesterday. I am the attorney representing the plaintiff in this lawsuit that's been filed against Remington Arms and is now in Alaska Federal District Court.

You've been identified as the employee or agent most knowledgeable regarding lawsuits against Remington involving the Model 700 action; is that correct?

A That's correct.

Q And you were also identified as the employee or agent most knowledgeable regarding the product safety subcommittee meetings?

A Yes.

MR. PEASE: Is that correct? And those are the items paragraph six, seven of --

MS. MORAN: Notice of deposition.

MR. PEASE: The 30B6 notice of deposition

dated -- I guess it's not dated.

MS. MORAN: Oh, you're right, it's not dated. But it's probably October 17th.

MR. PEASE: And he's being offered to respond to those portions.

MS. MORAN: Those portions, yes. Okay.

BY MS. MORAN:

Q Now, we are taking your deposition first as an accommodation to you. I understand you do not work or reside in Ilion or the area; is that correct?

A That's right.

Q Okay. And hopefully that I won't have any additional questions, but if I do, I may need to take your deposition again or some type of interrogatory.

MR. PEASE: Well, is that a statement or a question or what?

MS. MORAN: I'm just -- As a preliminary matter --

MR. PEASE: Well, I am not agreeing to that, if that's what you're asking.

MS. MORAN: Well, I am going to put on the record that it may be necessary for me to

continue this deposition after I take the deposition of other agents and employees and other information that's generated.

BY MS. MORAN:

Q You've had your deposition taken before?

MR. PEASE: Let me make it clear, I am not agreeing to that. You can ask all the questions of this man in these areas at this time.

MS. MORAN: Okay. You've made your statement.

BY MS. MORAN:

Q You're an attorney; is that correct?

A Yes, I am.

Q Have you ever had your deposition taken before?

A Yes.

Q How many times?

A Oh, I'm going to estimate maybe five, five or six.

Q Where do you currently reside?

A Wilmington, Delaware.

Q Why don't you tell me a little bit about your educational background starting with college.

A Okay. I graduated from Northwestern University

majoring in political science. I graduated -- That was 1958. 1961, I graduated from Stamford Law School. You want to go through the professional?

Q Yeah. And then why don't you give me a synopsis of your work history.

A Okay. After graduation from law school, I was on a teaching fellowship at Stamford Law School for a year. I went to -- After that, 1962, I was associate counsel at the New York City law firm of Paul, Weiss, Rifkin, Wharton and Garrison. In 1963 through 1967, I was assistant District Attorney at the New York County District Attorney's office. 1967 to 1970, I was counsel in the legal department of a process engineering firm by the name of Dorr-Oliver, Incorporated. And from 1970 to 1985, I was associate counsel to the legal department of the Remington Arms Company, Inc. And then from 1985 to the present, I'm in the legal department of Du Pont Company.

Q Have you published any articles or treatises?

A I published a law review article on the rights of contractors in using inherently dangerous explosives, 1961.

Q For what law review?

A Stamford Law Review.

Q When you were associate counsel for the legal department of Remington, was that here in Ilion or in another office?

A This is in the office down in Bridgeport, Connecticut.

Q Is that the corporate office?

A That was, yes.

Q And, generally, what were your duties as associate counsel for the legal department with Remington back in 1970 through 1985?

A It was to coordinate all the work involved in handling products liability litigation. I did contractual work between Remington and outside parties, including our distributors and retailers, oversaw the government contract where we had to run an Army ammunition plant out at Lake City, Missouri, did some consulting on labor relations matters between the local unions that we had at the plant, just the general -- anything that came about from a legal standpoint for the company.

Q Primarily, your duties were with respect to product liability litigation, or would you say that was just a --

A Well, I would say that was just a probably the single most -- That area occupied the most of my time. I don't know if it was the primary responsibility, but it took about, I'd say, up to 40 percent of the work that I did with coordinating that.

Q And what are your duties with respect to Du Pont presently?

A Presently, I think -- I'm going to give you a little background. What happened was that the corporate office of Remington was moved down to Wilmington, Delaware. And the Remington legal work was taken over by the Du Pont legal department. And I was switched into the department -- Du Pont legal department, and I do now, as an employee of Du Pont, everything I did for Remington before, plus a little bit for various departments of Du Pont. So it's just -- The job just sort of expanded, but it's basically the same work.

Q And Du Pont is the parent company for Remington Arms?

A For Remington Arms, right.

Q And if I understand you correctly, your duties haven't changed much, other than now you do a little work for Du Pont; that's all?

A These and Remington duties are basically the same.

Q Right. Now, with respect to the product liability litigation and that area of Remington Arms, legally, Remington Arms, what role would you have with respect to a claim?

A Well, to start, when the process papers come into the company, they would be sent over to my office. I would read the process papers, the complaint and summons, I would determine the jurisdiction in which the suit was brought. My first duty would be to locate or retain an attorney in that various jurisdiction to defend the interest of Remington. Then I would send -- Let's confine this to a firearms case. It's easier.

Q Yes.

A Then I would send a copy of my cover letter confirming my retention of a local attorney. I would send a copy of that, plus a copy of the summons and complaint here, to Ilion so that they would open up a file on that claim.

After that, it would be a matter of my involvement would be basically to coordinate with the local attorney, tell him who our in-house witnesses would be, who

was most familiar with the particular model of that firearm involved and coordinate with him with respect to answering interrogatories, setting up depositions, getting people there on time and then proceeding as the dictates of the case warranted going from there.

And if it goes on to trial, depending upon the scheduling and so forth, I may attend the trial. I may not. It depends on, you know, what the schedule is and who is available to attend.

Q Okay. Do you get involved in claims prior to the time a lawsuit is filed?

A Generally, no. I say generally. If an attorney gets involved with the claim before a lawsuit is filed, then wants to talk to an attorney rather than someone at the plant, I will converse with him and talk to him about -- Usually, the discussion is: Will he send the exhibits back to our plant to examine them? But the handling of pre-litigation complaints is done at the plant where the product was manufactured. If it was a firearm, it would be done by people here in Ilion.

Q Okay. Do you have an engineering background, or have you taken any courses in that area?

A No.

Q Do you know how many claims or personal injuries have been made against Remington Arms for injuries associated with the Model 700 action?

MR. PEASE: What period of time?

MS. MORAN: Well, from the time that it was first manufactured in 1970.

Q Do you have like statistics on that?

MR. PEASE: Well, we had -- You're asking him two questions.

MS. MORAN: Okay.

MR. PEASE: Did he and, two, do they have statistics?

Q Okay. First, did you know?

A I don't know if I have them.

Q Okay. Do you have statistics or documents that would reveal that number?

A Well, first of all, when we talk about claims, are we talking about just litigation claims, or were you talking about pre-litigation claims?

Q Why don't we talk about both at first, and then maybe refine it to litigation claims.

A Okay. All right. Litigation claims, in order to track how many claims were brought -- litigation claims were brought against Remington, we go to our records file. Our record retention for litigation is six years from the date of final disposition of the case.

On the claims -- What we call claims, which you would call pre-litigation claims, just a complaint letter we would keep that -- those files on those letters for three years from the date of ultimate disposition of that complaint. So what we would do is go back and check through those files, and that's what we would get.

In other words, it wouldn't go back to the thirties or the forties. Of course, the gun was manufactured -- this particular gun, the 700, was 1963 -- '62, so we would only -- probably only have the records for litigation complaints back through the seventies, middle seventies.

Q You don't have a separate document that has a tally of how many claims have been made?

A I'm aware of no running tally that's kept on a particular model, no.

Q Do you have an estimate as to how many claims have been made? And we'll talk about litigation claims at

this point.

MR. PEASE: Involving the 700?

MS. MORAN: Involving the Model 700.

Q And you can confine all your remarks to the Model 700 unless I ask otherwise.

A Well, we prepared a list of litigation claims in direct answer to your first inquiry, which goes back to 1980.

Q Right.

A You want me to go back on that same model in my memory to past 1980?

MR. PEASE: If you can.

Q Correct. Yes.

MR. PEASE: I might comment, you're getting beyond the area where you indicate a time frame where it's appropriate.

MS. MORAN: I thought you said the quote limited the time frame with respect to questions for production and interrogatories, but that I would be allowed to inquire further to determine whether or not we could broaden that question at a later time.

A Well, I would say probably another ten cases.

MR. PEASE: That's an estimate?

THE WITNESS: Yeah. That's including all Model 700's. I haven't broken them down like the interrogatory has, so I -- There will be no way for me to, you know, come up with a Model 700 ADL rifle.

Q You have a copy of my -- or of your supplemental responses to my interrogatories; is that correct?

A Yes, I do.

Q Okay. And if you could turn to interrogatory number five, which is found on Page 4 of that response.

A Yes.

Q Did you prepare the response to interrogatory number five?

A I had this response prepared, and I looked it over.

Q And how did you obtain the information regarding these responses? Did you refer to documents you were discussing earlier, the file claims?

A Yes. Files up here at Ilion were checked and gone through, and all these 700 ADL complaints from 1980 to the present were pulled. And then those were factored out

by claims against the action, I guess.

Q Do you know if you included any claims involving the Model 700 BDL action?

A No.

Q Do you know if those were excluded?

A They were excluded.

Q Do you know how many were excluded?

A No.

Q Are the lawsuits which I mentioned in interrogatory number five, those lawsuits filed since 1980?

A Yes, I believe so. Let's see.

MR. PEASE: Yeah, since 1980.

Q And that's just with respect to those that actually have been filed?

A Yes. These are litigation claims.

Q Are there any lawsuits which are not mentioned which were filed prior to 1980 but have not been tried or had a final resolution, involving --

MR. PEASE: If you know the answer.

A I don't know. I have to check. I don't know.

Q Do you know if you -- You don't know one way or the other, if I understand your response correctly, whether

or not you included in your list lawsuits that may have been filed prior to 1980 but have not yet been resolved or that were resolved in the period between 1980 to 1985?

MR. PEASE: Wait a minute. Wait a minute.

You asked him two questions there.

MS. MORAN: Okay. We'll break it down.

Q Do you know if there are any lawsuits that were filed prior to 1980 which have not yet been resolved?

MR. PEASE: That are not --

Q That are not included in this list?

A That, I don't know.

Q When you were preparing the response to this interrogatory, did you purposely exclude any lawsuits that had been filed prior to 1979?

MR. PEASE: What do you mean by purposely?

MS. MORAN: Well, I meant --

MR. PEASE: That's what we were told by the Judge to do.

MS. MORAN: That's why I'm wondering if perhaps, you know, you went through and were reviewing the claim files and preparing this response, whether or not you knew there were

lawsuits back in 1979; but because they were filed prior to 1979, you did not include them in the list even though they may have been resolved past that period of time.

A Well, the direction was to get all the suits involving a 700 ADL that were filed since -- And I've forgotten the date in 1980, but some month in 1980. And that's what's produced here. I can't independently think of any suit that was filed before '80 that is still pending that involves the 700.

Q And in your response to interrogatory number five would not include lawsuits that were filed prior to 1980 but were resolved subsequent to 1980; is that correct?

A Were resolved subsequent to 1980, well, yes -- No, it would include that, because some of these are resolved.

MR. PEASE: No. She's saying, would this include any that may have been filed before 1980 but then disposed of after 1980? Is that your question?

MS. MORAN: Yes, uh-huh.

A Oh, I would say it would not include those.

Q Turn to your response to interrogatory number

five, beginning on Page 5 with the first lawsuit entitled, "Lewy versus Remington."

A Yes.

Q The present status or outcome, you have indicated a verdict against Remington. And that is on appeal?

A Yes.

Q What was the amount of the verdict?

A \$28,000 compensatory, \$400,000 punitive.

Q How many punitive?

A \$400,000.

Q Now, you indicated that it's on appeal. Is it still on appeal?

A Yes.

Q And when do you anticipate it will be resolved?

MR. PEASE: The appeal?

MS. MORAN: The appeal, yes.

A Our attorneys' best estimate is that they believe the oral argument on appeal will probably be April or May of 1987.

Q 1987?

A 7. April or May of 1987.

Q When was the --

MR. PEASE: That's only next year.

MS. MORAN: Okay. Okay. I was thinking --
I was thinking it was two years from now.

Q Okay. When was the case tried? When was the
judgment entered?

A June -- The judgment was early July 1986.

Q Okay. And what was the nature of the injury?

A It was a leg injury suffered by a woman. I
believe it was in her thigh.

Q And how did the injury occur?

A Her son was down in the basement attempting to
unload his Model 700, and the gun fired, by his allegation,
upon movement of the safety to the fire position. The bullet
went through the ceiling of the basement, which was the floor
of the living room, into her thigh as she was sort of dozing
in the chair in the living room.

Q Okay. Turning next to Lopez versus Remington.

A Uh-huh.

Q Can you tell me when that case was settled,
approximately?

A Oh, I would say probably '82.

Q What was the amount of the settlement?

A \$5,000 was Remington's settlement. I believe the suit was also against the gun handler, and Remington --

Q Why don't you tell me about the facts of that case.

A All right. As I remember --

MR. PEASE: You're talking about the allegations?

MS. MORAN: The allegations, recognizing, of course, that all these claims, Remington was probably denying that these were all factual allegations.

A The two fellows in a truck came to a fence and stopped the truck to open the fence. The one that got out to open the fence was Lopez. The other fellow was in the open end at the back of the truck, and he decided he was going to unload his gun at that time. As he was withdrawing it from a gun case -- a leather gun case, he claimed the gun went off as he was withdrawing it and shot Mr. Lopez. I believe it shot Mr. Lopez in the upper part of the body, causing severe damage and an operation, and I believe it came very close to his heart. And he was severely permanently injured from then on.

In examining the gun, Remington found that one of the components -- It was either the sear or -- I believe it was the sear -- had been filed away so that the gun was susceptible to being fired by some sort of jar, either by moving the safety or by slamming the bolt down. And the prime presentation of this evidence before trial, the plaintiff from Remington settled it for \$5,000, our participation in it.

Q What about Morris versus Remington?

A Morris is a pending case down in Texas. The allegation, if I remember it from the complaint, was there was a young boy who had his Model 700 in the house with several other young boys in the house with him. And he was -- There were several. And he was carrying the gun -- And it's unclear to me 'cause I haven't followed it, and I don't know if a deposition has been taken yet. But either he was going to unload it or was carrying the gun. But at any rate, as he was in the house, another young boy came up in back of him and yelled, "Boo." And as he did that, whatever the gun handler was doing at the time, the gun discharged and shot a third boy in a highway and injured him very severely.

And as I say, that's still pending, so the

allegations are -- That's the basics. I don't know the details of what's going to be alleged with respect to the gun.

Q Okay. Do you know the nature of the injury?

A I did, and I can't remember it. I think it's a spinal injury of some sort. Or, no, I believe it's a death case. I'm sorry. It's a death case.

Q And when do you expect that to go to trial?

A I don't have any date in mind. I know we are still in the discovery stage.

Q What is the alleged defect?

A The design, manufacture and warnings of the 700.

MR. PEASE: I take it you're just saying generalized design?

THE WITNESS: Generalized design at this point.

Q All right. You don't know the specific alleged defects? They haven't --

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

Q -- either responded to --

A I haven't, 'cause I haven't reviewed the file or haven't got any material from our attorney that would enable

me to give you a better update than I have.

Q And is this the local attorney that you hired in Texas?

A Yes. Houston I believe. Our attorney is in Houston.

Q Has that gun been inspected?

MR. PEASE: You mean by Remington?

MS. MORAN: By Remington, yes. Excuse me.

A I believe it has, yes.

Q Now, do you know what that inspection revealed?

A I believe we found no manufacturing -- manufacturing defects in the gun.

Q Now, let's turn to Muzyka --

A Muzyka.

Q -- versus Remington. When was that case tried?

A I believe that could have been very early in 1984. It was tried. The facts or the allegations of the complaint were that Muzyka -- Mrs. Muzyka was injured in her house, shot in the leg when, I believe it was her uncle, was assisting her in moving, and he was preparing several firearms to move to put in the truck to move them out. And in unloading the guns -- He was unloading the Model 700. And as

he was factoring the shells through the chamber, he closed down the bolt, and the gun discharged as she was walking past him -- walking past the muzzle and shot her in the thigh. The trial ended in a verdict for Remington. It was appealed by the plaintiff, and the Appellate Court sent it back for retrial on the ground that it was error to exclude from evidence the subsequent removal of the bolt lock from the Model 700 and that the plaintiff should be allowed to cross-examine Remington's expert as to what they felt about the subsequent removal and so forth, whether that had any effect on their opinion that the gun, as designed with the bolt lock, was unreasonably dangerous.

Q When's that scheduled for retrial?

A It's been bouncing all around. Right now, I understand it could go as early as December 1st of this year.

Q The next case looks like --

A Schierkolk.

Q -- Schierkolk. When was that case tried?

A That was tried in either late '84 or '85. Probably in '84. I would say late '84.

This involved the allegations of Mrs. Schierkolk who was shot in the leg by a teenager who was out

on a hunting trip with her husband and herself that was using a Model 700. They had stopped the truck on a hunt in Colorado to get out and scope out, as they call it, a deer on a mountainside. And that is basically just taking the rifle and looking through the scope of it to see whether the deer is in season. And in doing so, they decided the deer was not in season, and they were getting back into the truck. And he, the young boy, decided to unload his rifle at that time. And as he was in the process of unloading, the gun fired and shot Mrs. Schierkolk who was standing alongside, in the leg.

The allegation was, basically, that the Model 700 with a two-position safety and bolt lock is an unreasonably dangerous design. And the verdict was for the defendant.

Q That case wasn't appealed?

A No, there was no appeal to that case.

Q Okay. Going to Seyferth versus Remington.

A This is a currently pending case in Chicago, and it involves an allegation that Mr. Seyferth was shot and killed when his hunting companion, a Mr. -- I hesitate to say it 'cause you're going to ask me to spell it -- Offenwanger I believe is his name was in the process of

either loading or unloading. This moment, I can under -- I can't determine which from my own memory. He was -- He was -- The gun was in a leather case on the back of a truck, and he was standing there withdrawing the gun, either to load it or unload it. And as he was doing that -- And his allegation -- Offenwanger's allegation -- is that he moved the safety, and the gun fired through the case and into Mr. Seyferth as he was walking toward the truck.

The gun has been examined by Remington, and the case is still in discovery with no trial date allotted.

Q Let me back up a little bit. You said that it's alleged that Mr. Offenwanger was withdrawing the gun from the leather case and then moved the safety or moved the safety as he was withdrawing the leather case, withdrawing it then from the leather case, or did I misunderstand?

A No. It's a little confusing to me as I sit here now. He was either withdrawing it or putting it in -- The leather case was involved because the muzzle was covered by the leather case. He was preparing either to load it or unload it. And in doing so, he took the safety to the fire position, moved the safety off, in other words, and that is when he claims the gun fired.

Q And it's still in the discovery stages; is that correct?

A Yes, right.

Q Is there a trial date?

A No.

Q Let's turn next to Shutts versus Remington.

A Yes. That was a case that went to trial in Oswego, New York. I believe it was the middle of '84. This is a -- The allegations were that a gun handler, whose name escapes me for the moment who was also a co-defendant in this case, was in the process of unloading his gun along the side of a trail, and Mr. Shutts was standing alongside his truck parked on the trail, either just finishing lunch or preparing to eat lunch, was standing along the fender of his truck. And as the gun handler started to unload, he had moved the safety to the firing position, was just beginning to raise the bolt, according to the gun handler's story, the gun fired and shot Mr. Shutts in both knees, went through one, then went through the other knee. He was standing sideways, permanently crippling Mr. Shutts.

The judgment was for the plaintiff against the defendant, as I remember it. They allotted 64 percent

liability to the gun handler and 36 percent to Remington, and the case was settled after judgment to avoid appeal on a structured settlement. Figures, I do not have. The amount of the judgment I believe was 1.5 million, and it was somewhat less -- the settlement was somewhat less than that, but I don't have the figure in mind.

Q The 1.5 million figure was the total judgment for both defendants?

A Total for both defendants, yes.

Q And what was the claimed defect in that case?

A The claimed defect in the gun was the two-position safety with the bolt lock is an unreasonably unsafe design.

Q Let's go to Thomsen versus Remington.

A This is a case that was filed out in California, Sacramento, California, by the widow and children -- surviving children of Mr. Thomsen who was killed. And they got suit against the State of California, the Department of -- I don't know the official name. It's equivalent to the Department of Parks, the park rangers and Remington. And the allegations were that some time after dusk, a park ranger visited the campsite of Mr. Thomsen and his friend and was under some suspicion that they may have been poaching and required them

to get out of their vehicles. And he started to search the vehicle for firearms. And as he went to the Thomsen truck, he asked Mr. Thomsen to get out and stand away from the door. He then started to remove from the floor board of the truck a rifle which, since it was dark, he didn't know what model it was. Subsequently, it became known that it was a Model 700. As he -- As he started to withdraw the gun from the truck, the gun fired. And at that very moment, Mr. Thomsen looked back to see what was happening and was shot in the head and was killed instantly. The State of California in their discovery requests and so forth were the ones that were making the allegation that there was something wrong with the gun. And they determined that -- They believed the gun fired when the safety was inadvertently moved to the fire position as he was -- as the park ranger was removing the gun from the truck.

Q When this -- Excuse me. When the safety was inadvertently removed?

A Yes. They were claiming that as the ranger was pulling the gun out, his thumb may have been inadvertently moving the safety to the fire position.

Q Okay.

A And that the gun fired just by that action alone, that the ranger was not pulling the trigger at the same time. The case was settled before trial by the parties. Remington's contribution was \$100,000, and I believe the state -- I'm not sure what the state's was. It was substantially more than that, but I don't know. The state settled on behalf of the state plus the park ranger.

MR. PEASE: I think on the interrogatory answer, we had the wrong case number. If you want to correct it, the case number is 2-94401. I think there's one other correction.

THE WITNESS: Yes, while we're doing that.

MS. MORAN: Excuse me. It was 2-94011?

THE WITNESS: And there is a correction to be made on the first page -- the first page, the Lewy case. I'll show it to you. Its jurisdiction was misprinted.

MS. MORAN: Oh.

MR. PEASE: Just so we have a record of that, the correct jurisdiction for the Lewy case is Southern Division of Missouri.

BY MS. MORAN:

Q Now, is Remington named a defendant by the plaintiffs in that case, or was Remington named a defendant in a third-party complaint brought by the State of California?

A I believe there was a third-party complaint brought by the State of California, but I -- The plaintiff did bring Remington in as defense. I can't remember now whether they were in as a defendant before the third-party suit or immediately after as a result of that, but we were both a third-party defendant and a defendant in the suit.

Q And were the allegations with respect to design defect or a manufacturing defect?

A It was a design defect, manufacturing defect, both.

Q What was the nature of the alleged design defect?

A I believe there were multiple allegations. One is that the two-position safety with bolt lock is unreasonably unsafe and that the design of the gun allowed the gun to fire when the safety was moved.

Q Did they allege a manufacturing defect, that is, defect in the actual trigger assembly, outside of design?

A I know they were looking at our drawings very carefully to see if there was any part out of specification,

but I can't remember now whether there was or was not. It was still in discovery when the case was settled.

Q And why don't you tell me about Van Allen versus Remington.

A This was a case that resolved around the allegation that Mr. Van Allen, who was a State Policeman, was shot in the leg as he was attempting to withdraw a Model 700 from the seat of his truck. He and his partner were off duty and were going hunting, and his partner was on one side of the truck and Mr. Van Allen was on the other. Mr. Van Allen reached in to the seat to -- where his Model 700 was lying exposed. It wasn't in a case. He grabbed it by the muzzle and started to pull it out towards him. His companion had his hand on the stock trying to pull on it the other way or whatever, and the gun discharged into the thigh of Mr. Van Allen. And the claim was that the gun was defective in that it fired without the trigger being pulled. And the verdict was for the defendant.

Q Was there an allegation that the two-position safety was an unreasonably dangerous design?

A I don't believe so. I believe it was basically a case involving a gun that jarred off, and that term meaning

that the gun, when bumped or moved, it fires without the trigger being pulled.

Q And do you know when that case was tried?

A That was -- I would say around '81. Early '82, perhaps.

Q And the verdict, was that appealed?

A No.

Q Now, the lawsuits you've listed on Pages 4 -- I mean 5 and 6 of your supplemental responses to our interrogatories, are those lawsuits that have been filed from 1980 and to the present date?

A Yes. They may have been -- I'd have to recheck to see if there is any one subsequent to the filing of that, but that was when we filed it, that was true.

Q Now, do you know how many cases may have been filed prior to 1980 but were tried from 1980 to the present? Do you know how many cases there would be?

A No, I don't know. I don't know if there is any. I don't know a number, no.

Q You don't know if there are any? There are none that you can think of?

A No. I'd have to check the date.

Q Okay. Turning to Page 7 of your supplemental response to interrogatory, which is a continuation of your response to interrogatory number five, Page 7 contains a list of complaints involving the 700 ADL action, but in which no lawsuits were filed; is that correct?

MR. PEASE: We're offering Mr. Sienkiewicz to answer about the details of those.

A That's my understanding.

Q Are you familiar with those claims, or is Mr. Sienkiewicz more familiar with these claims?

A I'm not familiar with them at all.

Q Okay. And that's because they have not been reduced to a lawsuit; is that correct?

A Right.

MS. MORAN: Could we go off the record for a moment?

(Short recess.)

MS. MORAN: Why don't we go back on the record.

BY MS. MORAN:

Q Mr. Sperling, we're back on the record, and I believe you recalled a case that was filed prior to 1980 but

was tried post-1980?

A Yes, that's correct. It was Hansen versus Remington. And it involved the allegation -- This was filed down in Florida, and it involved -- It went to trial. It involved the allegation that a -- two college boys were out on a hunting trip. Mr. Hansen loaned his hunting companion a Model 700 to hunt with. They separated, and when they came back to the truck, the hunting companion started to unload the 700 and was having trouble unloading it. Mr. Hansen started toward him to help him unload. And as he was reaching for the gun, the gun discharged and shot Mr. Hansen in the leg. The allegation against the gun was that it was unreasonably dangerous to design a gun with a two-position safety with the bolt lock. And the jury verdict was for Remington. There was no appeal.

Q Do you recall where in Florida this case was filed?

A I believe it was Orlando.

Q Any other cases that you can recall that were filed pre-1980 that were filed post-1980?

A No. That's the only one I can remember.

Q Now, you've been identified as the individual

from Remington who was familiar with the product safety subcommittee; is that correct?

A That's correct.

Q Okay. Can you tell me when the product safety subcommittee was formed?

A 1971.

Q Okay. Can you tell me why it was formed?

A I was not present when it was formed. I believe it was formed -- The purpose of it when I knew it -- I came into it fairly early -- was to discuss problems that were being alleged or evidenced in the field that would cover more than one particular product, that is, pervasive over the line. In other words, it wouldn't discuss a problem if a gun came back that was alleged to be defective, but it would discuss a potential problem if it would affect all the guns in the line and it had a safety-related problem, not only guns, but ammunition, any products that had a possibility of being more than one out there that was in the same condition.

Q And how would you learn of those problems? Was there some kind of documents that were generated?

A We would learn of them in various ways. Either someone would send a complaint letter, and/or someone like a

field representative would learn of a problem and submit it to one of the members of the subcommittee who would then call a meeting to discuss it. In other words, it could be generated from outside the company or inside the company.

Q Let's look at that complaint letter. How many complaint letters would you have to receive in order for a complaint to be reviewed by the product subcommittee?

MR. PEASE: I object. That assumes there was some formula number.

Q I don't know. Was there any formula for determining how an item would come before the product safety subcommittee?

A No. It could be one letter. If the letter came in and complained about something and subsequent investigation indicated there may be a problem, then it was before the product safety subcommittee.

Q Who would give you a copy of the complaint letter, the product safety subcommittee?

A Well, all complaint letters would come in either to the product service department or addressed to the president. They come in addressed to the company, and they eventually get filtered down to the product safety department.

Q What is the product service department?

A Well, each plant has one. There's -- They handle the complaint letters from customers. And if someone has a complaint with a product, they send it in, and it goes to the product service department. They contact the complainer, find out what the problem is, try to get him to send the product back for examination and investigation of the product and dispose of it depending upon what the examination revealed.

Q And who would be in charge of the product service department? Would it be the manager?

A Yes. At Ilion firearms, the product service manager is Ed Sienkiewicz.

Q And how long has he been the product service manager?

A Since the early '80's. I don't know specifically.

Q And would that manager be the person who would tender the complaint letters to the safety product subcommittee?

A He may be.

Q But not necessarily?

A Not necessarily. Someone in his department may decide it's an important problem.

Q So it wouldn't necessarily have to go through the

manager; anybody could submit the problem to the product safety subcommittee?

A Yes. Anybody working at the plant could submit it if it's something that should be discussed.

Q Now, the product safety subcommittee being a subcommittee must be under some other committee?

A Yes. It was formed by what they call the operation committee.

Q And what is the operations committee?

A I never attended a product -- an operations committee. As I understand it, it is formed by, oh, managers, department heads of the company that get together periodically to set the course of the company in marketing its products and what products are going to be developed for the next -- in the future. And they meet, as I say, periodically to not only set the course, but to review how the past directives have been carried out and so forth. It's sort of a running overview -- overview of the running day-to-day operations of the company that they meet every month or so. I don't know what the schedule is.

Q And did the operations committee decide to form the product safety subcommittee?

A Yes. 1971, it was the subcommittee of the operations committee.

Q Do you know why they made that decision?

A Other than the purpose of it was to discuss these problems, and they wanted to have a special committee to do that, rather than do it in the very overworked and heavily worked operations committee.

Q Prior to 1971, had the operations committee performed the function that the product safety subcommittee took over in 1971?

A It was -- As I understand it, it was really formed by the people who ultimately became the members of the subcommittee, but not in formal manner. This just sort of formalized the way those kinds of discussions took place and with who. Yet we may have the members of the product safety subcommittee. It was by the position. It was the director of research was the chairman of the committee, director of marketing, director of production, general counsel and a secretary who was usually appointed from the research department. Those were the members of the product safety subcommittee.

Q So if I understand your testimony, prior to 1971

when the subcommittee was formed, the various functions or the functions of the subcommittee ultimately undertaken were handled by the operations committee?

MR. PEASE: And I object as an incorrect characterization of his prior testimony.

MS. MORAN: Okay.

A No, that's not correct. What -- It was informally handled by department heads who received the complaint.

Q Okay. And those department heads are the individuals you listed before?

A Yes.

Q Research of marketing, production, general counsel? How often does the product safety subcommittee meet?

MR. PEASE: Today?

MS. MORAN: All right.

Q Today, maybe working backwards? Is there any kind of special -- like once a month?

MR. PEASE: I don't think it's in existence today.

A It is not in existence today.

Q Okay.

A But when it was in existence, it didn't meet any particular time, only when a complaint or an issue was brought before it. It could meet every two weeks. It could meet once every two weeks. It depends on what was put before it. There was no scheduled meetings.

Q How long did the product safety subcommittee exist?

A It existed up until 19-- late -- well, 1985 when the corporate offices were moved down to Wilmington.

Q Is there a different committee which has taken over the function of the product safety subcommittee?

A No. The functions are really taken over by the department heads, again, because now they're centrally located. And it would be -- Any such problem would be discussed by the department heads together without any formal committee or subcommittee structure.

Q When you say because they are all consolidated, what do you mean by department head?

A Well, they're down here in Wilmington -- down in Wilmington. And in consolidating various departments, including the legal department -- In doing that, they decided that they abolished some committees, and one of them was the product safety subcommittee structure and have gone another

route now from the standpoint of discussing these problems. And that goes directly to the department head, which would be the head of marketing, that started off and then consult with research department head and legal. Basically, all the departments, but it would be a different format. Research would not be head of the subcommittee.

Q Okay. Prior to 1985, the department heads were not all located in Delaware; is that correct?

A No.

Q Were they spread out across the country?

A No. Let's see. The department heads that I mentioned were basically situated in Bridgeport.

Q Presently, if I understand you correctly, those problems or the role that the product safety subcommittee had is now back to the department heads?

A Yes.

Q And if someone has a customer complaint or a problem with the product --

A Oh, it wouldn't effect them. They would still write into the same people they've written in before.

Q Okay. But then those individuals, if I wanted to have a --

A If they have a discussion --

MR. PEASE: Let her finish the question.

Q That's right. If they wanted to have the company review the problem or have a discussion about it, who would they contact?

MR. PEASE: Are you talking about people in the company?

MS. MORAN: In the company.

Q After they've received a customer complaint, before, as I understand it, they would submit it to the -- they could submit it to the product safety subcommittee. Who would they submit that problem to now?

A They would submit it probably to their own department head.

Q Okay. Who would be the department head for customer complaints?

A Well, that would be the manager. That's Ed Sienkiewicz. What I mean was, their own department head. For instance, if Ed Sienkiewicz got a -- got word of -- either through internal or outside sources -- that there may be a problem with one of our products, he would probably contact the director of marketing and say, "I think we ought

"to discuss this." And the director of marketing will say, "Okay. Pull together what you have, and we'll -- we'll look over your report and see who we need to have in the meeting." If it's a technical problem, they would have the director of research.

Q Okay. What is the record retention policy for the product safety subcommittee's documents?

A I believe it's permanent.

Q And the -- Okay.

A I should say I've never checked it.

Q You don't know if there is --

A I'm really guessing.

Q If there is, like, a six year policy?

A I don't know, but I can look at -- There is in existence. Right now, it's 1971, which was the first minutes.

Q How often has the Model 700 been the subject of the product safety subcommittee?

A Searching back through the minutes that I found, I found two minutes that talked about the Model 700.

Q And how far back did you search?

A To the inception of the minutes, which was 1971.

Q Now, in response to interrogatory number six, I received the following documents, which are numbered 7D -- well, 7A, B, 7C and 7D.

Are these all the documents you could find in reference to the Model 700?

MR. PEASE: Now, let's see. These -- Let's -- Wait a minute. Let me get mine.

MS. MORAN: That's in response for production to requests.

MR. PEASE: Okay. You said interrogatories.

MS. MORAN: I'm sorry.

A These are not product safety subcommittee minutes.

MR. PEASE: Have you got the request for production?

MS. MORAN: I have it.

MR. PEASE: See what it says.

MS. MORAN: Okay. Excuse me. I'm sorry. That is in response to -- Okay. Requests for production number eight, I guess you didn't send me any documents.

MR. PEASE: Now, which requests for production

are you talking about, the second request?

MS. MORAN: No. My first request for production.

MR. PEASE: Okay. And what was number eight? I think you're right. There were no -- There were no requests for production. Number eight --

MS. MORAN: Now, wait a minute. Let me back up a minute.

MR. PEASE: Number eight request to production asks for any and all documents with respect to any problem with the Remington 700 ADL and/or 700 ADL action, including, but not limited to, internal memoranda, committee suggestions or other documents. That was the request. That was eight.

MS. MORAN: Okay.

MR. PEASE: And we filed --

MS. MORAN: Okay. Let's see. Okay. Response -- I'm sorry. Responses for production number four, request for any and all product safety reports from whatever regarding the 700 --

Remington 700 ADL action or 700 ADL rifle.

MR. PEASE: And that was -- I mean, a Judge issued some order on that with respect to this request for production, right?

MS. MORAN: Well, you had to respond back to 1980 or two years prior to the date the rifle was manufactured. And we know it was pre-1982. We don't know when the rifle was manufactured yet.

MR. PEASE: Right.

MS. MORAN: And I received no documents in response to that question.

MR. PEASE: That's right.

MS. MORAN: Is that because no documents exist?

MR. PEASE: Well, let me look at that. Now, D -- You, in your second request for production, paragraph eight, you asked for the minutes of all product safety subcommittee meetings regarding the 700.

MS. MORAN: Right.

MR. PEASE: And we have not produced those.

MS. MORAN: Okay. But with response to

request number four, wouldn't a product safety subcommittee report come within the purview of that request?

MR. PEASE: Well, I'm not sure. But we have -- We have those two -- We have -- He had brought with him copies of those two minutes of those two meetings that he referred to.

MS. MORAN: Okay.

MR. PEASE: I can give those to you now.

MS. MORAN: Why don't you.

BY MS. MORAN:

Q Do you know what minutes documents 7A, .7B, 7D -- C, 7D --

MR. PEASE: I know what it was, because the minutes --

Q -- refer to? Do you know what those documents are?

A No. Just a guess.

Q Okay.

MR. PEASE: But they're in response to paragraph seven of your first request for production, because they're labeled seven.

MS. MORAN: Seven, okay.

Q But you don't know what they are? They are not product safety subcommittee meetings?

A I know they are not product safety subcommittee meetings.

Q How do you know that?

A 'Cause they're on the same form, and there's a specific heading for the product safety subcommittee meetings.

MR. PEASE: You know, if you want, I'm prepared --I offered them once to you, and you rejected me. But I will try once more.

I have minutes here of the two product safety subcommittee meetings which Mr. Sperling signed, which is the 700 -- which involved the fire control system on the Model 700 Remington.

MS. MORAN: The fire control system would involve the safety; is that correct?

MR. PEASE: I guess, because that's your term, not ours. But --

MS. MORAN: Right. I just wanted to --

MR. PEASE: And one was a meeting held January 2, 1979 consisting of five pages. And

I'll get you a copy of that.

And the second was minutes of a meeting dated -- Well, the minutes are dated January -- I'm sorry. Yeah -- January 22, 1980. And that consists of three pages. And on this one, there are -- there some -- there is an Exhibit A which didn't involve that area. And then there is an exhibit that involved 600. Then there's an Exhibit B. There is some documents which involved the 700. And we'll give you those, but we haven't been able to copy them. There is some brochures and things like that.

And I submit that this is in response to paragraph eight of your second request for production, which we're obligated to produce it. But since Mr. Sperling was the acting secretary of those meetings, we thought it would be appropriate to have them so that you could question him about them.

MS. MORAN: I'd like to go off the record for a moment so I can review the product safety report. But before I do, I want to ask Mr.

Sperling --

MR. PEASE: Sure.

MS. MORAN: -- if he knows who would be the individual who would be able to testify regarding documents that are marked 7A, 7B, 7C and 7D which were produced pursuant to my request for production of all documents, interoffice memos, correspondence or meetings of any committee or other meetings regarding the Remington 700 ADL rifle and Remington 700 ADL action, including, but not limited to any meeting regarding safety and the trigger mechanism and any proposed recall of the same.

THE WITNESS: I believe Jim Hutton could.

(Discussion off the record.)

MS. MORAN: All right. Why don't we go back on the record.

BY MS. MORAN:

Q Okay. Mr. Sperling, we're back on the record. I wanted to ask you, are there any other committees outside the product safety subcommittee which would have considered issues regarding the safety or the trigger mechanism of the

Model 700?

A I don't know of any.

Q Let me ask you some general questions about what the committee would do when it was presented with a problem.

A Product safety subcommittee?

Q Yeah, product safety subcommittee. When it was presented with a problem, what would the committee do?

A Well, it would assign the development department to make an investigation into it, and I say fix a date in which they were going to have the examination completed and discuss the result of the examination -- result of the examination. And then depending upon what that -- what the results were, whether it needed more examination or whether we could determine at that point what to do, make a disposition, recommendation to top management.

Q Would various documents be generated by this type of procedure?

A Yes, sometimes.

Q Would studies be ordered by the product safety subcommittee?

A Yeah, they could be.

Q What type of investigation would be conducted

on a complaint?

A Well, it would be dependent upon what the problem -- the issue was that we were discussing.

Q All right. Let's assume it's a problem with the Model 700 fire control assembly or safety.

A Well, then, probably they would try to confirm the complaint or the issue and say, "Let's look into the problem," and assign it to either research or some production department at Ilion firearms plant to look into it and then report back.

Q Would there be a minutes from the product safety subcommittee indicating that such an investigation had been ordered by the subcommittee, or would it be more of a matter of internal memorandum?

A Well, usually the minutes indicated what happened at the meeting. If there was something to report back, they probably -- probably be reflected that someone was given the assignment.

Q Your attorney has --

(Plaintiffs' Exhibit 1 was marked for identification.)

Q Mr. Pease could share with you his copy, and I

can read from the copy you provided to me and answer a few questions. What's been marked Plaintiffs' Exhibit No. 1 is a minute, minute number 1-1979 of the product safety subcommittee, January 2nd, 1979; is that correct?

A That's right.

Q And you attended that meeting?

A Yes, I did.

Q And the purpose of that subcommittee meeting was a quality audit on the Mohawk 600; is that correct?

A Yes, it was -- Well, let me just refresh my memory here. The discussion at this meeting was to talk about the fact that we had instituted a recall on the Mohawk 600 rifle. And it goes into the discussion of why the recall was instituted and talks about the tricked condition. And the purpose of the meeting was to determine whether that tricked condition was present in our other bolt action rifles, mainly, the Model 700 bolt action rifle, rifles were -- rifles that were manufactured prior to 1975. And then it goes into a discussion I believe of the -- of the audit that we been conducting since the recall of the Model 600 and determining that the Model 700 did not have the tricked problem of the Model 600 -- Let me cancel all of that.

The Model 700 did not have the problem of the Model 600.

Q Before we get to that, what is this tricked condition?

A The tricked condition? The tricked condition is when, as we defined it, is when you have a cartridge in the chamber, the safety is on safe or off, for that matter, that the gun handler positions the safety in a mid position between off and safe. There is no official mid position, but there is the two position: safety is either off or on. But there is a space in between the off and on, and if the handler takes the safety lever and balances it in between off and on then pulls the trigger, the gun will not fire. But if he subsequently moves that safety, which is now positioned between off and on, to the fire position, the gun will fire at that point in time.

Q He pulls the trigger, the gun won't fire; but then if he would move the safety lever either off or on --

A No. It has to move off.

Q Off?

A Take it off safe, the gun will fire.

Q And you reviewed the Model 700 for -- to see if

it had this particular problem?

A Yes.

Q And determined that it did not; is that correct?

A Right.

Q Now, there is a reference here to Model 700 that had been manufactured prior to 1975 as opposed to those who had been manufactured post-1975?

A Yes.

Q Was there some design difference in the two in those years?

A No, there was no design difference. But when we discovered the problem in the 600 in 1975, there were checks put in production at that time to test each rifle that was manufactured, each bolt action rifle, regardless of the model number for what we call the tricked position, that is, putting the safety in the mid position, pulling the trigger and then setting it off. That was instituted with the 700 as well as the 600.

MR. PEASE: As a production test?

THE WITNESS: As a production test.

A (Continuing) Prior to 1975 with the 700 and the 600, we didn't test for that condition.

Q Okay. If I understand it correctly, in 1975, you implemented a new test for this -- to determine whether or not this condition exists before you put the rifle out on the market?

A Right.

Q For retail?

A Right.

Q But prior to 1975, you didn't have that type of test?

A Didn't have any test that concerned the trick.

Q For the cutoff?

A For the cutoff of the 700, yes.

Q Of the 700?

A Right.

Q This product safety subcommittee meeting minutes refers to a quality audit on the return Model 700.

MR. PEASE: What page are you on, please?

MS. MORAN: I'm sorry. Page 2.

MR. PEASE: Which paragraph?

MS. MORAN: Second paragraph.

Q It says, "Starting in June, Remington conducted a quality audit on returned guns, and none could be tricked."

MR. PEASE: In the second -- Oh, I see.

MS. MORAN: Third paragraph.

A It says, "During this same period --"

MR. PEASE: No. It's this sentence here starting --

A (Continuing) Oh, in the -- Yes.

Q All right. Do you still have a copy of that quality audit?

A I don't, no.

Q Okay. Does Remington? Do you know if Remington does?

A I don't know.

Q Do you know if that quality audit was done at the request of the product safety subcommittee?

A No, it wouldn't have been conducted at the request. It was -- It was probably at the request of some department head when the -- when it was decided to recall the 600.

Q It would have been the decision of the department head rather than the product safety subcommittee to test the Model 700's for this condition?

A Right.

Q To conduct an audit?

A Yes.

Q And the product safety subcommittee didn't make that request; it would be something --

A They didn't.

Q They didn't?

A No, they didn't make the request.

Q Turning to Page 3, the second paragraph states that, "Remington has run quality audits on competitor bolt action rifles and has found a large percentage of competitor models can be tricked."

Do you know if Remington still has a copy of that quality audit?

MR. PEASE: This assumes that there were some recent documents?

A I don't even know if it was written. I don't know anything about the audit except that I was at the minutes of the meeting -- the meeting that stated that.

Q Okay. And your subcommittee did not review those results?

A Well, first of all, it wasn't my subcommittee.

Q I am sorry. The product safety subcommittee.

A No. They reviewed it -- If I remember it, I remember there was an oral report presented to the meeting at this time -- not at this time. What is this, January 2nd?

MR. PEASE: January 2nd, 1979.

THE WITNESS: Yeah.

A (Continuing) It was -- Whoever was speaking at the time was talking to us concerning the audit. But as I remember, there was nothing presented in writing. It just was a talk to the committee explaining the results of what would have been found.

Q Okay. Who would have performed that audit?

A The people here at Ilion, New York.

Q Which department would have performed the audit?

A I'd be guessing if I told you, if I tried.

Q How did the product safety subcommittee get involved in this topic and review this audit?

MR. PEASE: Which topic? You mean the competitors weapons or which?

MS. MORAN: The topics that are generated in this -- in this meeting minute, that is, reviewing the Model 700 as well as reviewing other -- other guns manufactured by competitors.

There must have been a meeting prior to this meeting to discuss this, and I am trying to understand how this all comes about.

A Well, this was an offshoot of the 600 recall and of the minutes and meetings that were circulated around the 600.

Q Okay. And how did that come about?

MR. PEASE: The 600 now you're talking about?

MS. MORAN: Yeah, the 600.

Q Okay. There were meetings regarding the recall of the 600?

A Uh-huh.

Q And I'm just guessing. You'd have to tell me whether or not in the course of those meetings somebody said, "Well, we should look at the 700."

A Well, no. The meetings on the 600 were prompted by concern for the 600, which was revolving around a lawsuit on the 600 that was alleging that the accident resulted from the result of a tricked condition and the 600. See, you have to -- you have to realize that the people who are taking part in the product safety subcommittee are also department heads that are acting, interacting. When things are going

MR. PEASE: Well, I don't think the question's comprehensible.

Q What the committee concludes is that a notice, warning or series of warnings against abnormal use would be a direct solution and has decided to recommend that kind of warning, and I was wondering to whom they made those recommendations. It says, "Marketing, legal and public relation departments were to coordinate their efforts," but I don't know if that's something -- Is that an operative from the product safety subcommittee to do that? Or does the Chairman of the Board get the minute and then make a direction to those departments to do studies, or how does that work?

A As you see at the end of the minutes, it says, "The president approves these recommendations on January 2nd, 1979." What happens, we go into his office, tell him what the meeting produced. The minutes wouldn't even be generated at that time. It was just, "Here's what we recommend." And it's a short synopsis of what the meeting was. The meeting may last two hours, but we would just describe to the president in about maybe 20 minutes on what we recommended and why. And then he would make a decision.

Q And you wouldn't have a document regarding that

meeting? Those weren't formal meetings where the secretary --

A There is -- Let me clarify. The meetings would reflect what happened in a summary form of the meeting that the subcommittee had. They would go in and report to the president orally. There was no report made up by the subcommittee and submitted to the president. He would eventually get a copy of the minutes, but there was no interim report or between that time. It was directly -- direct handling with the president.

Q And then --

A Communication to him.

Q And would the president then issue a directive to other departments such as marketing, legal and public relations regarding warnings?

A Well, he would --

Q Or your recommendations?

A Our recommendations would be, "Look, we think it's a good idea to go and warn the public about what we feel is going out there with alteration, modification for gun handling. We prescribe a program of so and so." He says, "Yeah, that sounds like a good idea. Why don't you work on that." So since the directors were there in the room at the

time, they would go out. They wouldn't wait for a formal written notice from the president. Their directors were already handling it. And he said, "Okay. Someone work on it." That's what they would do. Subsequently, a program did evolve.

Q Does that come under the auspices of any individual, or was that under the auspices of the product safety subcommittee?

A Well, the direct -- It was really -- Auspices sounds a little too formal. What it was with the people -- The subcommittee was working on it as a committee in that. What happened in formulating the notices was that all the in-house people who had familiarity with how guns are handled out in the field were asked for recommendations. We subsequently retained an outside firm to look into the problem and help us with our warnings and notices, and we contacted SAAMI, which is an acronym for the Sporting Arms and Ammunition Manufacturers Institute, which eventually came out with most of this program. And they are -- they are an industry organization. Not only Remington belongs, but all the other firearms and ammunition manufacturers.

Q The final sentence on this page before the

secretary's notes is that the first meeting would be held to ensure that this informational program was launched effectively and expeditiously. Were there further meetings discussing the safety program?

A Yes. Not necessarily with the product safety subcommittee, but there were ongoing meetings with people who were working directly with the program.

Q Did the product safety subcommittee have further meetings on this matter?

A One other that I could --

MR. PEASE: That's the second.

MS. MORAN: Is that the second minute?

Okay. Why don't we go ahead and mark that as Exhibit 2.

(Plaintiffs' Exhibit 2 was marked for identification.)

Q Now, this minute seems to deal with recall of the Remington Model 600; is that correct?

A Well, that was -- See, there's a lot of topics involved in each meeting.

Q Yes.

A The first topic discussed was the 600, which

then we also discussed in light of that subsequent audit of the 700 plus the -- informational program that we instituted. There are -- There were other topics discussed at this meeting which I recorded. I haven't presented you with the record of the other models, other ammunition products and so forth.

Q You mean there were other topics discussed at this particular meeting that are not reflected in the minutes?

A Right. But it has nothing to do with the 700.

Q Well, are the minutes prepared such that they are topical rather than chronological? That is, if you talked about -- Let's say on January 22nd, 1980, you talked about the bolt action rifles, and then you also talked about shotguns. You would have a separate minute for shotguns?

A No, not a separate minute. What it is is it just continues on here. There would be another heading. Instead of recall of certain Remington models, it would be ammunition product. And there would be a discussion. It would all be in one minute.

Q Okay.

A All I did was, I just factored out the remaining part of the minute. This happened to be the first topic.

Q Now, it says on Page 2 of the minute that, "The current status of Remington's Model 700 was also presented."

A Uh-huh.

Q Was that -- Do you know if there was a document presented, or was that again an oral report? Or do you recall?

A I believe -- I believe it was oral.

Q The second paragraph on that page states, "Since January of 1979, Ilion has added a new test to the Model 700 audit."

A Uh-huh.

Q Would they -- Do you know if they're referring to the audit that's discussed in the first paragraph, or is that a different audit?

A No. It's the audit that started as being discussed in the minute of 1979, which is continuing. And they're talking about that. And then what they're saying is, January '79 -- See, that audit that was discussed in '79 had started sometime in the summer.

Q Uh-huh.

A But after that, Ilion added a new test, what they called, it's now become known as the screwdriver test.

MR. PEASE: That's the one that you previously testified is done on all production models?

THE WITNESS: No. No. That's the trick test.

MR. PEASE: That's the trick test.

Q It was the trick test, oh. They have a new -- They added a new test that was called a screwdriver? Was that this new test?

A Just to test the audited guns.

Q Audited guns. But it wasn't a production test?

A As far as I know.

Q Okay. And audited guns -- Are audited guns the guns that were returned, or just do you know what the basis of that audit was?

A Yes. The audit was any gun -- any 700 that came back for repair was coming into the factory, we would take that gun and test it for the tricked condition. And starting in January '79, we also performed what they call the screwdriver test, which was an artificial test of turning the gun upside down and putting a screwdriver in the little slot in the bottom of the fire control and pushing up the trigger

connector and trying to trap it behind the sear, sort of manufacturing the trick condition as opposed to putting it -- putting the lever in the mid position. Forget that part of it. Let's push it up directly with a screwdriver and trap it behind the sear that way, and then seeing if you can do that with any of these guns that were being returned for repair.

Q Now, it states also in that second paragraph, "38 Model 700's were found to fire off safe." And then later on, it talks about the number of trickable guns versus the number that would fire off safe. Are those different conditions?

A Yes. That's a little confusing. Let me try to explain that.

The tricking guns, what we refer to as, quote, "tricking", unquote, is the situation where you try to manipulate the safety lever to a mid position between off and safe, pull the trigger. And when the position of the safety is in the mid position, instead of full on -- Let me back up, 'cause I tried to do it shorthand, and I can't. Let me describe -- try to describe the tricked condition.

Q Okay.

A It's very difficult for a liberal arts major to do, but I'll try to do it. The firing pin on a bolt action rifle is spring loaded so that it's trying to go forward and hit the primer of the cartridge and fire it. What prevents that from going forward is another component called the sear. When the sear is pushed up, it connects with an inner part of the firing pin. The firing pin can't go forward. When that sear is allowed to go down, then the firing pin goes forward, and the gun fires.

 If you have the safety off, the only thing that's holding up the sear in position to block the firing pin is the top of the trigger. So subsequently when you pull the trigger, the top of your trigger goes out from underneath the sear, the sear comes down, and the gun fires 'cause the firing pin goes forward. When you have the safety on, you have two things holding the sear up preventing the firing pin from going forward. You have the trigger, and you have the lower part of the safety, which is also pushing the safety -- the sear up.

 If you put the safety lever in the mid position, the lower part of the safety is starting to move toward off. Now remember, when you have it on, the lower

part of the safety is up against the sear. When you have it off, it's all the way, and the sear falls down. In the mid position, it's somewhere in the lower part of the safety and somewhere in the mid position, it goes down a little. The safety lowers a little bit, but not enough to fire the gun. It just -- Just a little bit.

Consequently, when you have the safety in the mid position, the sear -- the sear wants to fall down. It's being held up basically by the top of the trigger. When you pull the trigger forward and it's no longer supporting the sear, the sear falls down but is caught by the mid position safety. It lowers a little bit, but not enough to allow the firing pin to go forward, but just low enough to prevent the trigger, when you release the pull of the trigger, from getting back underneath the sear. So what you have is the trap trigger condition, and the only thing supporting the sear now is this half safety lever.

Consequently, when you move the safety lever forward, now the only thing supporting this sear is the safety lever. It falls away, the trigger can't support the sear 'cause it's trapped, and the gun fires. That's what you call the tricked condition.

Q Tricked condition, okay.

A Now, what we call the screwdriver test is the following:

Instead of trying to manipulate the safety lever, what you do is, you trap the trigger forward by pulling the trigger, pushing a screwdriver up there and pushing the trigger now up high enough so that it gets trapped behind the sear. The trigger connector is high enough so it's trapped behind the sear, and then moving the safety off. And that's called -- or what we call fire off safe. So the tricking condition is the manipulation of the lever in the mid position. The fire off safe means that you put a screwdriver up there to trap the trigger that way and move the safety to the fire position.

Q Why did -- Why was the screwdriver test developed?

A Well --

Q Is it to test the trickable condition?

A No. What it was -- As far as we can determine -- It's a little unclear. But from what I can determine, if you want me to give you my best, is that with the recall of the 600, Remington firmly believes that no one out in the field goes and tricks a gun to fire, no one puts it in the mid

position. What happens is the gun fires, and if the gun is susceptible to the trickable position, that's what they claim happens after the fact. We wanted to test these guns from every possible -- possible claim that could be levied against the 700. One claim could be that a twig or something gets up underneath that little hole in the fire control in the bottom and something -- either a twig gets up there and pushes -- traps the trigger, or a fellow trying to adjust his gun with a screwdriver that way -- It was a very artificial test, and it was just to come up with any possibility that we thought a claim might be made about tricking the gun. It was an artificial way of trying to trick it. But I'm trying to distinguish between trick and screwdriver. That's why I don't want to get involved saying it's connected with the trick. But, basically, it's another way of trying to manipulate the gun, if you will, in a condition which was not intended to be manipulated. We don't think -- as much as we don't think people trick guns out, we certainly don't think they're putting screwdrivers up them or twigs or whatever. But we -- Apparently, somebody decided that they were going to try to see if it was a susceptibility to the gun.

Q And, apparently, then you talk about publicizing

proper gun handling and maintenance information and specifically discuss an ad, "Half safe is unsafe"?

A Yes.

Q Was that ad implemented?

A Yes. That was run in various sporting magazines. The substance of it was put on radio spots, television spots. It's in a little booklet that we packed with each gun.

Q Okay. It says here that it was decided to put the safety message on packages in the back of shotgun shells and in your fire ammunition boxes?

A Yes.

Q That's the last paragraph. Again, was a department head there who implemented that program, or did the president have to review these findings?

A I don't know exactly how it was implemented, but it became implemented.

Q Okay.

MR. PEASE: And I've indicated that Exhibit B, that describes here, well provide you with copies of those ads and things like that. Isn't that what they are, Bob?

THE WITNESS: Yes, they are, ads and

messages.

Q And was there an Exhibit A?

A Yeah. Exhibit A was something unrelated to the 700. It was a form letter, recall letter we sent out with the 600.

Q Okay. Now, other than the meeting of January 2nd, 1979 and the meeting of January 22nd, 1980, the Model 700 has never been discussed by the product safety subcommittee?

A That's correct.

Q And to your knowledge, has the product safety subcommittee ever discussed safeties for bolt action rifles?

MR. PEASE: Has ever discussed what?

MS. MORAN: The safety features on bolt action rifles.

MR. PEASE: You mean just any bolt action rifle?

MS. MORAN: Any bolt action rifle.

A I -- Yeah, I think they did. I can remember one time we discussed the safety on a certain model.

Q What model was that?

A 788.

Q What type of gun is that?

A It's a bolt action rifle.

Q What does the 788 --

A It's just a model designation. It's a different design than the 600 and 700. The very -- Well, generally, the problem was whether the safety lever design was such that would -- It was a very particularized problem. The question was whether, if you put your hand up higher -- close to the safety when it was on and you swung it over your shoulder, whether the movement of your -- whatever you call this web between the thumb and forefinger would inadvertently knock that safety off. It was a different design than the 700 and the 600.

Q Do you know when that was discussed, approximately?

A 1980 I think.

Q And do you know if the product safety subcommittee ever discussed deleting the bolt lock from the Model 700?

A I know it did not.

Q Do you know if the product safety subcommittee-- Or maybe this is already encompassed in my last question -- ever reviewed the bolt or bolt lock for the Model 700?

A The product safety subcommittee?

Q Yeah.

A No.

Q Do you know of any committee that reviewed the bolt lock for the Model 700?

A Only by secondhand knowledge, I would assume the operations committee discussed that.

Q Have you reviewed any of the operations committee minutes?

MR. PEASE: Well, this assumes --

Q Pursuant to my request for production regarding the Model 700, any of the safety features? I know you said you reviewed the product safety subcommittee minutes.

A Right.

Q I was wondering if you also reviewed the operation committee minutes.

MR. PEASE: Well, first of all, that assumes that they keep minutes.

MS. MORAN: Yeah, assuming. I don't know.

Q Do they keep minutes?

A I believe so.

Q Okay.

A I did not personally review them. I had someone review them who was --

Q And I don't know if I have already asked you this question. But since 1985 when the product safety subcommittee was disbanded, are you aware of any committees that have reviewed safety features on the Model 700?

A No, I'm not. But you have to realize that the day-to-day operations at the plant call for review of everything, all models. And only -- You know, I just don't get involved in that kind of day-to-day operation. I don't know what committees are in production or in research or whatever. These kinds of discussions probably take place on a day-to-day situation with all models, but I don't know.

Q You don't know of any specific --

A No, I don't know any specific discussion of any

Q -- discussion or studies?

A No.

Q Or who to address -- If someone wanted to request documents pertaining to any discussions regarding safety features in the Model 700 from 1985, who would they request that information from?

A Well, I would institute a search, but --

Q Okay.

A I wouldn't do it personally. It would be up here

at Iliou. It would go through.

MS. MORAN: Okay. I don't think I have any more questions.

MR. PEASE: All right. Thank you.

(Whereupon, the examination of Robert B. Sperling was concluded.)

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