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REMINGTON ARMS COMPANY, INC., FREDERICK
G. MATHIS, HAROLD HANEY and DAVID HANEY,
INDIVIDUALLY and d/b/a MARCELLUS GUN SHOP.

Defendants.

APPEARANCES:

FOR THE DEFENDANT: BOND, SCHOENECK & KING
(Mathis) Lincoln Center
Syracuse, New York 13202
BY: S. PAUL BATTAGLIA, ESQ., of Counsel

Reported by:

Helen F. Davis

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1 (It is stipulated that this is an examination before
2 trial held pursuant to notice; that the presence of a
3 referee is waived; that the signing and filing of the
4 transcript is waived; that all objections except those as
5 to form are reserved until the time of trial; and that the
6 witnesses may be sworn by a Notary Public.)
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1 R O B E R T S P E R L I N G , having been duly sworn by the
2 Notary Public present, testified as follows:

3 EXAMINATION BY MR. AMDURSKY:

4 Q Mr. Sperling, about the time we broke up at the last
5 examination before trial, we were talking about both the
6 Hansen case and the Stark case. I gather you've read the
7 minutes of the examination before trial that we took on
8 August 26, 1982?

9 A I haven't read them completely.

10 Q Well, if there's any problem with it, speak to me and
11 either Mr. De More or I will let you consult the minutes.
12 I don't propose to spend much time on it. The Shutts
13 gun . . . which, by the way, is here --

14 MR. BATTAGLIA: You brought it with you
15 to this office?

16 MR. AMDURSKY: Yes.

17 Q And in the Hansen case, was the same model and generally
18 the same gun as the gun in the Shutts case; was it not?

19 A Yes.

20 Q And the Hansen accident occurred on December 20th, 1977;
21 did it not?

22 A I'd have to refresh my recollection.

23 Q Sure you would. Will you give him the Hansen file?

1 (Witness examines file.)

2 Q I said the date was December 20th, 1977. Will you take
3 a look at the Complaint and see if you agree that that's
4 the correct date?

5 A That's the correct date.

6 Q Have you any information on the date that this was referred
7 to anyone on your behalf for investigation?

8 A I referred the case by letter dated July 3, 1979.

9 Q I think I talked with you about some letters that you
10 wrote to Mr. Bussey, your Counsel, and a letter you wrote
11 which is Exhibit 47; and I'm sure that you identified that,
12 but for the purpose of continuity, will you please iden-
13 tify it again?

14 A It's a letter that I wrote to our Counsel, John Bussey
15 January 13th, 1981, in connection with the Hansen case.

16 Q And in that letter is when you sent him the Summons and
17 Complaint?

18 A I didn't directly send him the Summons and Complaint.

19 Q Copies?

20 A I referred the copies to another party, and they sent on

21 Q Very good. Were they included in this letter?

22 A You're referring to the Summons and Complaint in the
23 Hansen case?

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1 Q Uhm-hmm.

2 A No, they were given to Mr. Bussey prior to this letter.

3 Q Oh, so what you're saying here is that in your letter of
4 January 13th you sent him the Summons and Complaints in
5 the Shutts case and in the Lange case?

6 A That's right.

7 Q And said that they involved issues similar to those pre-
8 sented in the Hansen case?

9 A Yes.

10 Q Did you either orally or by letter ever advise Mr.
11 Bussey or any member of your Florida firm that the bolt
12 had been removed from the 700 bolt . . . bolt lock had
13 been removed from the 700 rifle in 1974?

14 A I don't recall offhand.

15 Q Well, if you find that you did, will you provide us with
16 that information? Or, in its place, give us an answer
17 that you did not so advise Mr. Bussey?

18 MR. DE MORE: What do you want him to
19 get?

20 MR. AMDURSKY: I want to know whether
21 he advised Bussey, who was defending Hansen,
22 to whom he sent copies of the Complaints in
23 Shutts and copies of the Complaints in Lange.

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if he advised Bussey that Remington had removed the bolt locks from the 700 models in 1974.

MR. DE MORE: All right. Are you referring to something that answers that question?

MR. AMDURSKY: No. I want to know . . . he says he doesn't know whether he did or not.

THE WITNESS: I don't believe I did.

MR. AMDURSKY: I mean 788, that the bolt lock had been removed from the 788.

THE WITNESS: I don't have any recollection of telling him that.

MR. DE MORE: You're talking about the Model 788?

MR. AMDURSKY: Model 788.

BY MR. AMDURSKY:

Q It is true that it evolved at the end of the afternoon of our last examination that in 1974 Remington removed the bolt lock from its Model 788 gun; did it not?

A Model 788.

Q Model 788. And by doing that, will you tell us whether

5
1 it was possible to unload the gun with the gun on the
2 "safe" position?

3 A Yes.

4 Q And you also told me that after doing that, Remington
5 never advised any of the owners of the 700 guns; is that
6 not true?

7 MR. DE MORE: Object to the form of the
8 question. Go ahead and answer it.

9 THE WITNESS: We never did.

10 Q So, from sometime in 1974 to the date of the Shutts acci-
11 dent, Remington was manufacturing its 788 model without a
12 bolt lock?

13 A That's correct.

14 Q Which would have permitted, allowed the gun to be put on
15 "fire" -- on "safe" position while it was being unloaded?

16 A Yes.

17 Q I believe you told me that so far as you know, 788 and 700
18 were substantially the same gun except that the 788 was a
19 little more inexpensive model; is that not correct?

20 MR. DE MORE: I object to the form. Answer
21 it, if you can.

22 THE WITNESS: I believe it was less expen-
23 sive. I don't know how detailed the differences

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1 between the two guns were.

2 Q Do you know whether there were any differences?

3 MR. DE MORE: I think he's already answered
4 that question. I just soon . . . now, wait a
5 minute. I just soon defer that question. He
6 is the corporate attorney. We'll have Mr.
7 Linde here to answer all those questions.

8 MR. AMDURSKY: If he doesn't have any in-
9 formation, you can be sure he's not going to
10 give it to me.

11 BY MR. AMDURSKY:

12 Q Do you have any information as to what the differences
13 between the 788 and the 700 . . .

14 A I don't, no.

15 Q Will you tell us, before we leave this, what led up to
16 Remington removing the bolt lock from the 788 model?

17 A I don't know.

18 Q Were there any meetings on it that you were advised of or
19 were present?

20 A I don't recollect any.

21 Q Was there any writings on it that ever came to your atten-
22 tion?

23 A I don't remember any.

Are you able to tell us when you first knew that such a decision had been made and that the bolt locks were removed from the 788s?

No, I can't pinpoint any particular date.

Well, can you tell us the year?

No.

You wouldn't know if you were told that and learned it in '74 or not?

No, I couldn't pinpoint a date.

Or learned it in '75 or not?

No.

MR. DE MORE: I think you've already answered the question.

Have you looked for all writings -- let me withdraw that. Have you found out since who made that decision and when it was made, prior to the removal of the bolt lock?

No.

Are you able to tell us whether you knew that that decision had been made prior to the time that they removed the bolt lock?

I did not know prior to the removal of the bolt lock that it was going to be removed.

Will you cause a search to be made so that you're able to

1 provide Mr. Linde with the information as to all writings
2 or oral meetings that led up to the making of that deci-
3 sion and who participated in it?

4 A All right.

5 MR. DE MORE: We'll take that under advise-
6 ment.

7 Q Will you also provide us, or take under advisement to pro-
8 vide us with all written or oral recommendations that led
9 up to the removal of the bolt lock on the 788?

10 MR. DE MORE: How's he going to provide
11 an oral recommendation?

12 MR. AMDURSKY: If there was a meeting,
13 minutes of a meeting.

14 MR. DE MORE: All writings.

15 MR. AMDURSKY: I want to know who was
16 there. I'll examine him, maybe he'll be able
17 to tell us.

18 MR. DE MORE: I don't see --

19 Q Would you regard that . . . of moment to the legal depart-
20 ment, that they removed the bolt lock? I'm not asking
21 your opinion. I'm asking your opinion as a lawyer.

22 MR. DE MORE: I'm not going to let him
23 answer that.

1 (Off-the-record discussion.)

2 MR. AMDURSKY: I request that you provide
3 us with all information, all meetings, minutes
4 of all meetings, all written recommendations
5 as to why you removed the bolt lock from Model
6 788 in 1974; and have the available information
7 in Mr. Linde's hands when we examine him on
8 December 3rd. We'll also want that other fel-
9 low here on December 3rd -- what's his name?
10 St. John.

11 MR. DE MORE: We'll see.

12 BY MR. AMDURSKY:

13 Q Do you know a man by the name of St. John?

14 A Yes.

15 Q Is he still there?

16 A Yes.

17 MR. AMDURSKY: And I add to my request
18 that you provide us with the order from Reming-
19 ton to Manufacturing, directing that bolt locks
20 be removed from Model 788 in 1974.

21 Q I've got some Answers in Stark; it goes back one case or
22 two. Maybe you better get the supplemental Answers to
23 Interrogatories in Stark. In Stark, in Answer to supplementa

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Answers to Interrogatories, did you state . . . did Remington state that though it is not impossible to incorporate a three position safety on this type of rifle, referring to the 700, the strong concern for safety and other safety design mechanism consideration made a three position safety ill-advised for this rifle. Was that a correct answer to Interrogatory 11 in Stark?

A Yes, it was.

Q And was that Remington's position at the time?

A Yes.

Q Is it still Remington's position?

MR. DE MORE: Object to the form of the question. What does it . . .

Q Has Remington changed that position?

A Not that I'm aware of.

Q Now, at that time that you had removed the bolt lock, did you advise the counsel for the plaintiff in this case that in 1974 you had removed the bolt lock from the 788 rifle so that that rifle could be unloaded with safety on "safe" position?

MR. DE MORE: Was there some question asked of them at that --

MR. AMDURSKY: I don't know.

1 MR. DE MORE: I'm not going to let him
2 answer that question.

3 MR. AMDURSKY: Did you advise --

4 MR. DE MORE: I'm not going to let him
5 answer that unless he was asked the question.
6 Unless there is a specific question addressed
7 to that point in these Interrogatories, I'm
8 not going to let him answer that.

9 BY MR. AMDURSKY:

10 Q Did you yourself know it at that time?

11 MR. DE MORE: At what time?

12 Q At the time the answer was made to 11 in Stark. That was
13 in 1979.

14 A Did I know what now?

15 Q That Remington, in 1974, had retained a two position
16 safety on the 788 model but had removed the bolt lock
17 which would permit the gun to be unloaded with the safety
18 on "safe" position; did you know it at that time?

19 A I probably knew that in '79.

20 Q But you still won't give us an answer with any certainty,
21 of course, when you did know it for the first time?

22 A I can't pinpoint a date.

23 Q At that time in '74 and before, had several other

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1 competitive companies making similar rifles with two
2 position safeties removed the bolt lock?

3 MR. DE MORE: Object to the form of the
4 question.

5 THE WITNESS: I don't know.

6 Q Did you ever inquire, even since this lawsuit has been
7 brought, whether or not several companies in 1974, prior
8 to Remington removing the bolt lock, had removed the bolt
9 locks from similar rifles to 700s?

10 MR. DE MORE: Object to the form of the
11 question.

12 THE WITNESS: I never inquired.

13 Q Was it within your duty to determine what was the state
14 of the art in the manufacutre of rifles in 1973?

15 A I don't know.

16 Q Was it within your duties as associate counsel in charge
17 of all litigation, as you told me on product . . . was it
18 within your duties to determine the state of the art so
19 far as safeties were concerned, two position safeties,
20 three position safeties, trigger safeties, or removing the
21 bolt lock or what the state of the art was? Was it within
22 your duties to determine that yourself?

23 MR. DE MORE: Object to the form of that.

1 But go ahead and answer it, if you can.

2 THE WITNESS: Only if I was answering a
3 question on Interrogatories would it have been
4 within my duty to find out, to answer the
5 question.

6 Q In other words, you weren't . . . is it true that you had
7 no duties to advise as to state of the art except in
8 answer to an Interrogatory, when an action commenced?

9 A Yes, in connection with litigation that's what my duties
10 would have been.

11 Q Were you familiar, then, in carrying out your duties as
12 to the state of the art of safeties as it existed in 1973
13 and 1974 to and including October of 1978? Were you
14 familiar?

15 A I really don't remember if I was familiar. I'm certainly
16 not familiar with it now.

17 Q But whether you were at that time, you're saying you
18 don't remember?

19 A It would depend on what case was up at that time and
20 whether that was a question asked.

21 Q Now, Remington always had, from 1960 on, a gun that you
22 designated as your Model 725 with a three position safety;
23 did it not?

14

1 A I don't know.

2 Q Well, if you don't know, you can't tell me whether or not

3 that it was what the middle position was designated as,

4 can you?

5 A No.

6 Q You did tell me, on page 81 of the last examination before

7 trial, that a three position safety, as against a two

8 position safety, came up in meetings that you attended

9 and was discussed; did you not?

10 A Yes.

11 Q Is that true?

12 A Yes, meetings in litigation cases, the issue had been

13 raised before.

14 Q Did the state of the art come up, three position safety

15 as against two position safety, in any of those meetings,

16 as it existed at the time of the meetings?

17 A Probably.

18 Q And did feasibility come up in any of those meetings?

19 A Probably.

20 Q And you did tell me, at page 81 of our last examination

21 before trial, that "Remington contends, Remington Arms

22 contends, that the three position safety for the 700 rifle

23 is ill-advised. The added cost of the three position

1 safety would not place the Remington Arms Company at a
2 price disadvantage with customers, but a two position
3 safety is more safe and more well designed than a three
4 position safety," did you not?

5 A That was the answer to one of the Interrogatories, yes.

6 Q And that was the answer given to you by your people at
7 Ilion?

8 A Right.

9 Q And that's the answer you received back?

10 A That's right.

11 Q So, was that Remington's position at the time?

12 A That was Remington's position at the time.

13 Q And has there been any reason to change that position?

14 A I'm not aware of any change in position.

15 Q So, you believe Remington's position at the time of the
16 Shutts accident was the same as outlined in your Answer
17 here?

18 A I believe so.

19 Q And on page 92 you told me, "The two position safety is
20 easier for hunters to understand. More hunters, more
21 users, are knowledgeable about the two position safety
22 since most bolting action center-fire rifles have the two
23 position safety. The two position safety is less likely

1 to become caught in shrubbery." Is that the answer you
2 gave?

3 A Are you talking --

4 MR. DE MORE: Are you talking about page
5 93?

6 MR. AMDURSKY: Yes.

7 MR. DE MORE: Is that by way of discovery,
8 or is this cross-examination?

9 MR. AMDURSKY: Either.

10 MR. DE MORE: The document speaks for
11 itself.

12 MR. AMDURSKY: I want to ask him if it's
13 Remington's position.

14 THE WITNESS: That was an answer given, I
15 guess, in an Interrogatory.

16 BY MR. AMDURSKY:

17 Q Yes, it was. Was that Remington's position at the time
18 it was given?

19 A Yes, it was.

20 Q And was it Remington's position at the time of the
21 Shutts accident?

22 A I believe so.

23 Q Model 788 was first designed, you thought, on page 105,

1 sometime in the middle '60s. Is there any reason to
2 change that, since your last examination? I'm saying
3 788.

4 A Yes, I was guessing that. I don't know any more than I
5 did then, but --

6 Q Okay. 725 was a three position safety, 788 was a two
7 position safety?

8 MR. DE MORE: Is that a question or a
9 statement?

10 MR. AMDURSKY: Question.

11 MR. DE MORE: Hasn't he already answered
12 that about ten times?

13 MR. AMDURSKY: Once.

14 THE WITNESS: Yes, I believe the 725 was
15 a three position rifle; and I don't have any
16 reason to change that opinion.

17 BY MR. AMDURSKY:

18 Q They were both bolt-action rifles?

19 A I believe so, yes.

20 Q You told us that 788 was still in production; correct?

21 A Correct.

22 Q And from 1974 on, Model 788 has been manufactured with
23 the bolt lock removed?

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1 A Yes.

2 Q And you do know that the 788 is a less expensive rifle
3 than a 700?

4 A Yes.

5 Q I'm going to talk about Lange; are you familiar with it?

6 A Yes.

7 Q Were you out there during the trial?

8 A Yes.

9 Q Was that the case where the gun fired on a truck?

10 A It fired in a truck.

11 Q That was a 700 gun?

12 A Yes.

13 Q And it was a .242 caliber?

14 A .243.

15 Q .243 caliber, excuse me. And this accident occurred on
16 February 26, 1978?

17 A Yes.

18 Q I notice in Lange that you ask, in the Interrogatories,
19 whether you could give the exact date of the manufacture
20 of the rifle involved and gave you the number . . . and I
21 notice that your answer said that the exact date of manu-
22 facture could not be determined. Would that be the same
23 if I ask you the exact date of the manufacture of the

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1 Shutts gun?

2 A From the serial number only?

3 Q Yes.

4 A Yes, the exact date cannot be determined by the serial
5 number only.

6 Q How do you determine the year? I mean . . . I guess we
7 have agreed it was manufactured in 1973, the Shutts gun.
8 How do you determine the --

9 A That would probably be determined by the serial number.
10 If you wanted to get the month, then you would get to the
11 barrel.

12 Q The problem would not be with the year. It would be with
13 the month?

14 A Yes.

15 Q Are you able to tell us whether or not . . . I guess we've
16 all assumed that the Shutts gun was manufactured in '73,
17 but you can't tell us the exact month; is that correct or
18 not?

19 A I don't know. I'd have to look at my answers to Interroga-
20 tories. I don't remember the date of the . . . I don't
21 know what we determined, as I sit here today.

22 Q All right. You couldn't tell the month but you could the
23 year?

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1 A We could probably tell the month if we had the gun looked
2 at, all the codes. If you just gave us a serial number
3 and we check our records, we could tell you the year.

4 Q Mr. Lange would know?

5 MR. DE MORE: Linde.

6 THE WITNESS: If Linde looked at the gun
7 he would know, right.

8 (PLAINTIFF'S EXHIBITS 48 AND 49 MARKED FOR IDENTIFICATION.)

9 Q Just take a look at Exhibit 48 and 49 and see whether
10 or not you can identify 48 as the Answers to the Inter-
11 rogatories. Forty-nine, apparently, is Mr. Sperling's,
12 Remington's proposed Answers, so I assume . . . the
13 sequence is a little wrong. It doesn't make much differ-
14 ence.

15 A Forty-eight appears to be Remington's Answers to
16 Interrogatories.

17 Q And is it true that Exhibit 49 is a letter from you to
18 counsel, sending Remington's proposed Answers that, I
19 assume, were incorporated in part or in full in 48?

20 A Yes, December 2nd, 1980, is the letter I sent to our
21 counsel with proposed Answers in draft form for Plaintiff's
22 Interrogatories.

23 (PLAINTIFF'S EXHIBIT 50 MARKED FOR IDENTIFICATION.)

1 Q In the file furnished us, Exhibit 50 appears to be
2 Supplemental Interrogatories, but I didn't have any
3 Answers. Do your files show any Answers to the Supple-
4 mentals?

5 MR. DE MORE: I'm going to object to the
6 form of the question because I don't even show
7 the Supplemental Interrogatories. In other
8 words, what you have marked as Exhibit 50 I
9 don't show in the file that I have.

10 MR. AMDURSKY: Well, I didn't manufacture
11 them.

12 MR. DE MORE: I understand that.

13 MR. AMDURSKY: You don't --

14 MR. DE MORE: Never seen that before.

15 MR. AMDURSKY: All right. So, so far as--

16 MR. DE MORE: He can answer. What's your
17 question?

18 BY MR. AMDURSKY:

19 Q So far as whether or not . . . did you ever see it? All
20 I want you to do is tell me that no Answers were filed
21 if they weren't, if you know.

22 A I don't know. Right now, I don't remember seeing this,
23 but that doesn't mean it wasn't --

1 Q If it develops that that was filed and there were Answers,
2 will you furnish them to us?

3 MR. DE MORE: Sure. Why don't you let me
4 take a copy of that so they'll know what --

5 MR. AMDURSKY: Sure.

6 MR. BATTAGLIA: How many other pleadings
7 are there?

8 (Off-the-record discussion.)

9 BY MR. AMDURSKY:

10 Q Let me ask you, before we pass to the next: Did you ever
11 hear, over the years that you have been there since 1970,
12 that Remington's gunsmiths have removed the bolt locks at
13 the request of customers so that the guns may be fired
14 without the necessity of putting them onto the "fire"
15 position in order to unload? Did you ever hear that that
16 was going on?

17 A I believe so.

18 Q That would have accomplished the same purpose, would it
19 not, as Remington accomplished by taking the bolt locks
20 off the 788's in 1974?

21 A Whoever takes it off would be the same . . . the same pur-
22 pose would be accomplished.

23 Q In other words, after the bolt lock was taken off the 700

1 by the gunsmith, the gun, the 700, could be unloaded
2 without the necessity of putting the safety on "fire"
3 position; could it not?

4 A Right.

5 Q And that was the same result as occurred when you took the
6 bolt locks off the 788 in 1974?

7 A Yes.

8 Q And the same result as when you took the bolt locks off
9 the 700's in 1982?

10 A Right.

11 Q Passing on to some other folders that was furnished us
12 to Phillips. Phillips was a 600?

13 A Yes.

14 Q And there were no Bill of Particulars or no Interroga--
15 tories so far as you know? At least none were furnished
16 us. Take a look.

17 A That's right.

18 Q You told us that as a result of Coates you discontinued
19 manufacture . . . you had to recall the 600's and discon-
20 tinued manufacturing 600's completely in 1978, so they
21 were out of the 1979 line; is that correct?

22 A I believe so.

23 Q Would that go for the 660's, too?

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1 A I believe . . . I believe the 660's were no longer made
2 in '78.

3 Q In other words, it's your recollection . . . I'll try to
4 remember to ask Mr. Linde . . . that the 660's were discon-
5 tinued before the 600's?

6 A Yes, I believe so.

7 Q Do you know the difference, if any, between them?

8 A No, I don't.

9 Q They were both called Mohawks, weren't they? Or don't
10 you know?

11 A I don't believe the 660 was a Mohawk.

12 Q Do you make any Mohawks now at all?

13 A No rifles.

14 Q Slatter against Remington was . . . it's a 700?

15 A It was a 700.

16 Q This case was in the State Court of Wyoming?

17 A Yes.

18 Q And the accident occurred on October 19, 1978?

19 A Yes.

20 Q This was an unloading . . . the Complaint alleged that
21 "This gun discharged without the trigger being activated."

22 A I believe so.

23 (PLAINTIFF'S EXHIBIT 51 MARKED FOR IDENTIFICATION.)

1 Q The Interrogatories in this case ask the following:
2 "Question: Has Remington received a customer complaint
3 or a suit alleging a Model 700 discharged when a live
4 round was chambered. If so, please provide name and
5 address of Claimant, nature of the court in which claim
6 was brought." And is it true that that Interrogatory
7 was sent to you for answer?

8 A Yes, this was provided as an Answer to Plaintiff's
9 Interrogatories.

10 Q All right. And I show you Exhibit 51 and ask if this
11 is a memorandum to you from a gentleman by the name of
12 Chisnall, dated April 3rd, 1980, with an Interrogatory
13 as I've read it set forth; and did you compile a list
14 of answering such Interrogatory; and is 51 a true and
15 correct copy of the list?

16 A Yes, it is..

17 Q The gun in Slatter was a Model 700, .25-06 caliber?

18 A Yes.

19 (PLAINTIFF'S EXHIBIT 52 MARKED FOR IDENTIFICATION.)

20 Q Mr. Chisnall was Supervisor of Product Services with
21 offices in Bridgeport; was he not?

22 A Right.

23 Q Fifty-two is the Answer to the Interrogatories, Exhibit 52

with Exhibit 51, as Counsel said, attached thereto.

A Yes.

Q I look at Exhibit 51, Mr. Sperling, and I see some familiar names, from which I could establish the dates. But 51 doesn't give the dates, does it? Or does it?

MR. DE MORE: Date of what?

MR. AMDURSKY: Date of the accident.

THE WITNESS: No.

Q Well, I'm going to have to ask you to prepare for us a supplemental exhibit to Exhibit 51, giving the date of accident and the date that Remington was notified of same. For instance, so you'll understand what I mean --

MR. DE MORE: We understand, no question in my mind.

MR. AMDURSKY: Okay. You'll get that?

MR. DE MORE: I will do my best, after I take it under advisement. Whatever information we have I will get it for you, right, Bob?

THE WITNESS: Uhm-hmm.

(Off-the-record discussion.)

Q This list are all 700's, apparently?

A Yes.

1 Q List meaning Exhibit 51.

2 MR. BATTAGLIA: Which one are we on now,
3 Leonard?

4 MR. AMDURSKY: Lopez.

5 MR. DE MORE: Where are we now?

6 MR. AMDURSKY: Lopez.

7 Q This was a 700, Model 700 case?

8 A Right.

9 Q And the Complaint alleges that the -- strike that, please.
10 The action was brought in State Court of Texas?

11 A Yes.

12 Q And the Complaint alleges that, "While a plaintiff was
13 operating a Model 700, .30-06 caliber rifle, the rifle
14 discharged while it was on the "safety" position.

15 MR. DE MORE: Is that a question?

16 MR. AMDURSKY: No.

17 MR. DE MORE: I'll object to it.

18 MR. AMDURSKY: I'm satisfied. Because I
19 have little information . . . I do have Mr.
20 Portnoy's letter.

21 MR. DE MORE: On his Complaint?

22 MR. AMDURSKY: I have Mr. Portnoy's let-
23 ter who says, in answer to sending it on for

1 investigation which was dated . . . letter was
2 dated August 16th, 1980, . . . do you have it
3 in front of you?

4 A Yes.

5 Q That the Complaint alleges that "The plaintiff, a former
6 police officer, sustained serious abdominal injuries when
7 Larry Rasasno (phonetic), a police officer, pushed the
8 safety lever on his Remington Model 700," giving the
9 serial number and the caliber . . . "to the 'fire' position,
10 and the gun discharged." Is that what the letter of
11 transmittal from Mr. Portnoy to your investigator stated?

12 A Yes.

13 (PLAINTIFF'S EXHIBIT 53 MARKED FOR IDENTIFICATION.)

14 Q I have no Interrogatores; were there any?

15 A I don't know.

16 Q Or Answers?

17 A I'll have to check, I don't remember.

18 Q Case pending?

19 A No, the case is disposed of.

20 Q You'll check and see if there were anything further?

21 Van Allen, this was a Model 700 involved?

22 A Yes.

23 Q And an action was brought in Florida?

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1 A Yes.

2 Q In the United States Court?

3 A Right.

4 Q Although it would appear that the accident occurred in
5 Texas?

6 A That's correct.

7 Q I have in front of me Mr. Partnoy's letter to your investi-
8 gator including the Summons and Complaint and saying that
9 the Complaint alleges that, "While on a hunting trip to
10 Castel (phonetic), Texas, on November 20th, 1978, plain-
11 tiff was shot in the right lower extremity when a
12 Remington Model 700, .243 caliber bolt-action rifle dis-
13 charged, causing him to be injured in and above the body
14 and extremities." The Complaint further alleges that,
15 "The rifle was improperly designed and defective and that
16 the safety or the trigger mechanism on the rifle was
17 insufficient and inadequate to prevent the rifle from
18 discharging without warranting." Was that what that
19 letter, Mr. Partnoty to your investigator, said?

20 A Yes.

21 Q Do you know anything about this case?

22 A Yes.

23 (PLAINTIFF'S EXHIBIT 54 - 56 MARKED FOR IDENTIFICATION.)

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1 Q Do Exhibits 55 and 56 contain the Interrogatories and
2 Remington's Answers thereto? Let me add to that question.

3 MR. DE MORE: I think, if I understand
4 your question, Exhibit 54 is merely the letter
5 of transmittal, along with the Summons and
6 Complaint. I don't see any Interrogatories.

7 MR. AMDURSKY: Probably is. And I'll add
8 to the question the Interrogatories, the Answers,
9 and the letter of transmittal.

10 (Off-the-record discussion.)

11 MR. AMDURSKY: Strike it all.

12 Q I show you Exhibit 54 and ask you to tell us what it is.
13 A Exhibit 54 is a transmittal letter dated August 18th,
14 1980, to our representative, including a Summons and
15 Complaint that was served on Remington on August 4, 1980,
16 in the Van Allen case.

17 Q And I show you Exhibit 55 and 56 and ask you if they're
18 the Interrogatories and the Answers thereto subsequently
19 submitted to and furnished by Remington?

20 A That's right.

21 Q I know, in answer to Interrogatory 4, you say there were
22 charges in Model 700 since 1977; what were they?

23 A I don't know.

1 Q Who was Mr. R. L. St. John?

2 A Mr. St. John is an employee of Remington Arms Company
3 based in Ilion, New York, whose primary responsibility,
4 I believe, is to handle or instruct or to supervise . . .
5 well, cut supervision . . . go around to the Remington
6 recommended gunsmiths and give out literature, explain
7 new products to them, answer any question they may have,
8 that kind of thing.

9 Q Is he generally in charge or have some interest in con-
10 sumer relations?

11 A No.

12 Q Who is Mr. Paul H. Homberg?

13 A Mr. Homberg is in the Marketing Department.

14 Q Is he Marketing Manager for firearms?

15 A He was at one time.

16 Q When?

17 A I don't know.

18 Q Is he Marketing Manager now?

19 A I don't believe so.

20 Q What is he now?

21 A I don't know his exact title. I think it's Marketing
22 Manager for Specialty Products, something like that.

23 Q What's a specialty product?

1 A Remington makes some abrasive products, abrasive tools.

2 Q You mean non-firearms?

3 A Right.

4 Q Is Van Allen still pending?

5 A No.

6 Q Hass was a 600 case?

7 A Right.

8 (PLAINTIFF'S EXHIBITS 57 and 58 MARKED FOR IDENTIFICATION.)

9 Q I show you, Mr. Sperling, a document marked Plaintiff's
10 Exhibit 57 for identification and ask you if you'll
11 identify that document and its attachments.

12 A This is a transmittal letter dated February 11th, 1980,
13 which sent to our representative the Summons and Complaint
14 that was served on Remington on February 7th, 1980, in
15 the Hass case.

16 Q You stated in your letter of transmittal . . . and I'm
17 going to ask you if it's correct to save me reading it.

18 MR. DE MORE: Why don't we do this:

19 Unless you want to read it into the record,
20 doesn't the letter speak for itself?

21 MR. ANDURSKY: Sure.

22 MR. DE MORE: He signed it.

23 Q And will you identify Exhibit 58 marked for identification?

(Off-the-record discussion.)

1
2 A Plaintiff's Exhibit 58 is Remington's Answers to plaintiff's
3 Interrogatories, signed September 12th, 1980, and also
4 apparently some Answers to Remington's Interrogatories
5 by the plaintiffs.

6 Q This case, I assume, was similar to the Covalt case, or
7 wasn't it?

8 A It was similar. It was the same gun. Same model.

9 Q That talked about a tang safety?

10 A Tang, yes.

11 Q I assume this case is no longer pending?

12 A That's right.

13 (Off-the-record discussion.)

14 Q I notice, in answer to Interrogatory 17, and prior to and
15 part of the recall of Remington 600's, you set up a toll
16 free number and attempted to tell every owner of a 600
17 what to do with the gun; did you not?

18 A That's correct.

19 Q In order . . . I assume that was in order to get the
20 600's not only off the market but off anybody's hands,
21 right?

22 MR. DE MORE: I don't see what relevancy
23 any of this has.

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1 MR. AMDURSKY: The only relevancy I've got
2 was that they could have done the same thing in
3 788's.

4 MR. DE MORE: Okay. Well, do you want to
5 make your speech now?

6 MR. AMDURSKY: No, I'm making it to you
7 in case you think that I'm . . . all right.

8 BY MR. AMDURSKY:

9 Q This was a 700 gun involved, Model 700?

10 A Yes.

11 Q This was . . . and the action was commenced in the United
12 States Court of Oklahoma?

13 A Right.

14 Q The caliber of that gun was .30-06?

15 A Right.

16 Q The date of that accident was April 29th, 1979?

17 A Yes.

18 Q And the Complaint, paragraph 4, essentially alleged that
19 "This particular rifle is a bolt-action rifle and designed
20 so that the bolt cannot be operated, and thus the rifle
21 cannot be unloaded unless the safety is on the off or
22 "fire" position." Is that not true?

23 MR. DE MORE: It says that.

1 MR. AMDURSKY: That was the allegation.

2 MR. DE MORE: You read it correctly.

3 Q And following, "That as a result of said defective design,
4 the rifle had been placed on "off" safety when it was
5 attempted to be unloaded and as a result thereof, the
6 rifle discharged without the trigger being touched, re-
7 sulting in the plaintiff being struck by a bullet that
8 remained in the rifle, causing severe injuries as herein-
9 after stated." That was the allegation of the Complaint;
10 was it not?

11 A Of the Complaint, that was the allegation.

12 (PLAINTIFF'S EXHIBIT 59 MARKED FOR IDENTIFICATION.)

13 Q I show you documents comprising Exhibit marked 59 for
14 identification and ask you if you would please identify
15 them.

16 A These are the copies of the Summons and Complaint which
17 were served on Remington.

18 (PLAINTIFF'S EXHIBIT 60 MARKED FOR IDENTIFICATION.)

19 (Whereupon there was a short recess.)

20 Q Did I ask you whether or not you'd identify Exhibit 60?

21 A Remington's Answers to plaintiff's Interrogatories in
22 the Covalt case.

23 Q Did you prepare them?

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1 A I probably did.

2 Q Did -- let me withdraw it for a minute. You say here, in
3 answer to Interrogatory 19, which is as follows: "Have
4 you or any of your agents, servants, or employees con-
5 ducted any tests or experiments relative to the safety
6 mechanism on weapons similar to the weapon in question
7 prior to the date of December 1, '79?" And your answer
8 was yes, and I'll ask you to tell us what tests you made
9 up to and including October 22nd, 1978.

10 A I don't know.

11 MR. DE MORE: Why don't you take a look
12 at Interrogatory No. 20.

13 Q Your answer to 20 is . . . you said that, "The original
14 tests were done in the 1950's . . . various tests since
15 that time . . . records are not now available." Do you
16 know anything about the tests that were taken?

17 A No.

18 Q Do you know anything about . . . you have no records of
19 what tests were taken?

20 A No.

21 Q You were never advised of the results of any tests taken,
22 if in fact any tests were taken?

23 A I wasn't, no.

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1 Q Did you let Mr. Covalt know, after you heard of this
2 accident . . . before you heard of this accident, that
3 Remington had taken the bolt, in 1974, off the 788's?
4 Did you let him know as an owner of a 700?

5 MR. DE MORE: I object to the form of
6 that. Don't answer that. Did he ask him that?

7 MR. AMDURSKY: I asked him that. He's
8 already told me he didn't let anybody know, so
9 I assume that he's got to say no to Covalt.

10 MR. DE MORE: Is that a speech or a ques-
11 tion?

12 MR. AMDURSKY: Both.

13 MR. DE MORE: Why don't you get on with
14 your next speech or question. Don't answer
15 that.

16 MR. AMDURSKY: Well, you have told me --

17 MR. DE MORE: Don't answer that. He
18 has told you --

19 MR. AMDURSKY: Don't ask him what? I
20 don't care.

21 BY MR. AMDURSKY:

22 Q I notice in Interrogatory No. 30, "Have you or any of
23 your agents or employees had or conducted any safety

1 meetings or safety committee reviews in connection with
2 the weapon or weapons similar to the weapon in question?"

3 Answer: "There have been no safety problems involving
4 the design of Model 700 requiring such a meeting." Is
5 that Remington's position today?

6 A Yes.

7 Q Was it Remington's position on October 22nd, the date of
8 the Shutts accident, 1978?

9 A Yes.

10 Q And was it Remington's position in 1973 when it manu-
11 factured this gun involved in the Shutts case?

12 A Yes.

13 Q Well, let me ask you: Did Remington's position change
14 in 1982?

15 MR. DE MORE: I'm not going to let him
16 answer that. What relevancy does that have?

17 MR. AMDURSKY: Because he just testified
18 it was its position today.

19 MR. DE MORE: You questioned --

20 MR. AMDURSKY: I'll let it sit.

21 MR. DE MORE: Do you want to make another
22 speech?

23 MR. AMDURSKY: I'm making that to you.

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1 MR. BATTAGLIS: I'd like to know the
2 answer.

3 MR. DE MORE: Do you mind telling me what
4 relevancy . . . let me finish my question.

5 MR. AMDURSKY: I certainly have.

6 MR. DE MORE: I'm not going to let him
7 answer any question . . . you can question him
8 on documents you have in front of you; they
9 have been provided. I don't in any way admit
10 that they're relevant, I save that for the
11 Court; but as to items that take place far
12 remote from this man's injury, I fail to see
13 any relevance.

14 MR. AMDURSKY: Look it --

15 MR. DE MORE: That's going to be it.

16 MR. AMDURSKY: George, I know you pretty
17 well, do you understand me? And I know when
18 you mean what you're telling me and when you
19 don't mean what you're telling me.

20 MR. DE MORE: Why don't you get on with
21 your next question or speech.

22 MR. AMDURSKY: I shall.

23 BY MR. AMDURSKY:

1 Q And in response to Interrogatory 19 . . . response to
2 Interrogatory 42, "Does the defendant claim or contend
3 that the weapon in question was designed or manufactured
4 in the most practical and feasible manner known at the
5 time of the design and manufacture of same?" And was
6 your answer to it: "The mechanics of the safety on Model
7 700 is unchanged since its initial design." Is that a
8 correct answer?

9 A Yes.

10 Q Interrogatory 45: "Has the defendant received any claims,
11 either written or oral, by persons who claim to have been
12 injured by a weapon similar to the weapon which is the
13 subject of this action and which resulted from the fact
14 that the weapon had to be taken off safety in order to
15 unload the same?" Your answer was: "Weapon can be
16 unloaded by pulling handle to the rear in a safe position."
17 Is that a correct answer to that question?

18 A Yes.

19 Q Well, until 1982 it had to be put on the "fire" position
20 in order to raise the bolt; did it not?

21 A Right.

22 Q And Interrogatory No. 48: "Do you now manufacture any
23 model or weapon that may be unloaded with the safety in

1 the "off" position, even though the original design of
2 said weapon required that the safety be placed in the
3 "fire" position before the weapon could be unloaded?"
4 Your answer: "The Model 700 has not been changed." Was
5 that a correct answer?

6 A Yes.

7 Q Well, as a matter of fact, at the time these were sworn
8 to, had your Model 788 been not changed so that the gun
9 could be unloaded with the safety on "safe"?

10 MR. DE MORE: Are you representing Mr.
11 Covalt, on his behalf?

12 MR. AMDURSKY: No, he said it was a
13 correct answer.

14 MR. DE MORE: You know what the answers
15 are.

16 MR. AMDURSKY: He said it was a correct
17 answer.

18 THE WITNESS: Yes, it is a correct answer.

19 MR. AMDURSKY: Well, at least the answer
20 was . . . it was a responsive answer?

21 MR. DE MORE: Don't answer that.

22 MR. AMDURSKY: Was it a responsive answer?

23 MR. DE MORE: You heard me.

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1 BY MR. AMDURSKY:

2 Q Is this case still pending?

3 A No.

4 Q Mueller, this is a pistol case, is it?

5 A Yes, XP100.

6 (PLAINTIFF'S EXHIBITS 61 AND 62 MARKED FOR IDENTIFICATION.)

7 Q I show you Exhibit 61 marked for identification and ask
8 you to identify the instrument.

9 A This is a transmittal letter from Remington dated August
10 20, 1980, to our representative transmitting a Summons
11 and Complaint that was filed against Remington in the
12 Mueller case.

13 Q And I show you a series of documents stapled together
14 with a face page, apparently, being a letter dated August
15 20th, 1981, from you to whoever you send it to. Will you
16 identify that document?

17 A It's a letter dated August 20, 1981, to our attorney,
18 transmitting Remington's Answers to plaintiff's Interroga-
19 tories.

20 Q Do you remember this case?

21 A Yes.

22 Q And your original letter, Exhibit 61, that Mr. Portnoy
23 wrote, said as follows . . . I haven't read the Complaint

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1 . . . "The plaintiff alleges he was seriously and
2 severely injured while attempting to move the safety
3 lever from a safety position to a "fire" position when
4 the bolt action, single shot, .221 caliber, Model XP100
5 pistol fired. The plaintiff claims that the gun was
6 improperly and unsafely designed and that Remington failed
7 to provide adequate warning that the pistol might fire
8 without the trigger mechanism being operated." From
9 your recollection, was that a generally correct statement
10 of the situation in this case?

11 A It was a correct statement of the Complaint.

12 Q Sure, that's what I meant, of the Complaint. And you've
13 already told us that Exhibit 62 were the Interrogatories
14 and their Answers?

15 A Yes.

16 Q That was a bolt-action pistol?

17 A Right.

18 Q And it was necessary, at least in its original design,
19 to have to place the safety on "fire" position in order
20 to raise the bolt; is that not true?

21 A Right.

22 Q And in principle, that's like the gun in the Shutts case?

23 A Right.

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1 Q As I understand it, you recalled this pistol too, as part
2 of the 600 recall, or at least concurrent with it?

3 A Right.

4 Q Now, you gave, in answer to Interrogatory No. 11, all
5 the people that were present when Remington made a deci-
6 sion to initial the recall. Did you have any such meeting
7 that came to your attention when you decided to take the
8 bolt lock off the 788's?

9 A No, I don't remember any such meeting.

10 Q Do you still make this pistol?

11 A Yes.

12 Q Under the same number?

13 A Sorry?

14 Q Under the same number? What do you call it?

15 A Model number?

16 Q Model number.

17 A XP100.

18 Q Now, Interrogatory 23B was as follows: "Names and present
19 addresses of the persons employed by this defendant who
20 decided what alterations or changes were to be made to
21 weapons that were returned as a result of the recall
22 campaign," and you listed Mr. Linde, Mr. Hill, Mr.
23 Snedeker, Mr. Brooks, and Mr. Warren; is that correct?

- 1 A Right.
- 2 Q They had a meeting to decide what to do with what changes
3 were to be made in this pistol, right?
- 4 A I don't know if they had a meeting.
- 5 Q All right. You're correct, but between them they decided
6 the alterations that were to be made to this pistol,
7 right?
- 8 A They all had an input into it.
- 9 Q They all had an input into it. Whether they had a meet-
10 ing or not you don't know.
- 11 A I don't know.
- 12 Q And then "C" asks, "Was a new trigger and safety assembly
13 placed in the weapons that were returned to the dealers
14 as a result of the recall campaign?" And you say, "Answer
15 to 24," right?
- 16 A Yes.
- 17 Q And 24 Interrogatory is as follows: "If the answer to
18 the preceding Interrogatory is yes, state exactly and
19 precisely how the new trigger and safety mechanism
20 differed from the trigger and safety mechanisms that were
21 in the weapons at the time they were originally manu-
22 factured." And your answer was: "The bolt lock has
23 been removed." When was that removed from the pistol?

1 A I don't know.

2 Q So now on the pistol, with the bolt lock removed, the

3 user or the shooter can unload the gun and raise the

4 bolt with the safety on the "safe" position?

5 A Right.

6 Q Would Mr. Linde be able to tell me the day that this

7 decision was made?

8 MR. DE MORE: I don't see where it's

9 relevant. So you don't have to answer it.

10 MR. AMDURSKY: It's quite relevant.

11 MR. DE MORE: Okay. Are we now going to

12 litigate the XP100; is that what we're going

13 to do?

14 MR. AMDURSKY: No, but you did the same

15 thing in 1974. I don't know, maybe it was

16 done in 1980.

17 MR. DE MORE: Is this another speech?

18 MR. AMDURSKY: Yes, I'm just telling you

19 what I'm talking about.

20 MR. DE MORE: Okay.

21 MR. AMDURSKY: Because I don't believe

22 you'd know much.

23 MR. DE MORE: That's probably true. I

know enough, though.

(Whereupon there was a lunch recess.)

BY MR. AMDURSKY:

Q Just take a look at that, will you, and tell me if that's something you ever saw before.

(Witness examines document.)

A I don't have any independent recollection. It looks like an exhibit prepared by --

Q Somebody. I don't know. I wanted to know if you knew that Remington prepared it. Can you read that?

MR. DE MORE: Why don't we have it marked?

MR. AMDURSKY: I don't want it marked.

THE WITNESS: It might be Robert Hillburg.

MR. DE MORE: Can I see it?

MR. AMDURSKY: Sure, if it's Remington's of course you can see it, but if it isn't it wouldn't have any probative effect unless you knew where it came from.

MR. DE MORE: You've already showed my client; I'd just like to take a look at it.

MR. AMDURSKY: You're entitled to it.

MR. BATTAGLIA: Mind if I look at it over your shoulder, Mr. De More?

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1 MR. AMDURSKY: I have been told that you
2 prepared it, but --

3 THE WITNESS: Could be. I can't say that
4 we haven't.

5 (Off-the-record discussion.)

6 MR. DE MORE: Whatever the document is
7 that you've shown to Mr. Sperling --

8 MR. AMDURSKY: I showed it to him off the
9 record.

10 MR. DE MORE: You showed Mr. Sperling on
11 the record. I would simply --

12 MR. AMDURSKY: You're wrong.

13 MR. DE MORE: I would simply ask that the
14 document be marked and be made available.

15 MR. AMDURSKY: I decline.

16 MR. DE MORE: Okay.

17 MR. AMDURSKY: Unless you're able to
18 determine that this was Remington's document.

19 MR. DE MORE: Is that some kind of a
20 criteria for having that marked?

21 MR. AMDURSKY: Sure.

22 MR. DE MORE: Even though you've asked Mr.
23 Sperling --

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1 MR. AMDURSKY: I did not. I asked him
2 off the record if he ever saw it before. If
3 he had said sure, I would have put it on the
4 record. He said he didn't.

5 MR. DE MORE: Let's stop right there. I
6 think the record reflects that you asked him
7 questions about the document.

8 MR. AMDURSKY: If she put it in the
9 record, she put it in the record contrary to
10 what I asked. Anyway, there it is.

11 BY MR. AMDURSKY:

12 Q See was an action brought by Terri and Daryl See in the
13 District Court of . . . United States District Court of
14 Oregon and it concerned a 700 rifle; did it not?

15 A Yes.

16 Q Are you familiar with the case?

17 A Yes.

18 (PLAINTIFF'S EXHIBIT 63 MARKED FOR IDENTIFICATION.)

19 Q Will you tell us what Exhibit 63 is, sir?

20 A It's a letter dated October 7, 1981, written by me to our
21 representative transmitting a Summons and Complaint that
22 was served on Remington on September 30, 1981, in connec-
23 tion with the See case.

1 Q And you said in this case, I gather, that the plaintiff
2 claims . . . you said in that letter dated October 7th,
3 '81, that "The gun is defective in that it cannot be
4 unloaded with the safety on 'safe'" and further, being
5 my words, "and that the trigger mechanism was susceptible,
6 becoming contaminated with dirt and debris;" correct?

7 A It's quoting the substance of the Complaint.

8 Q I haven't read the Complaint, but is that generally the
9 substance of the Complaint?

10 A Basically.

11 Q This accident happened in October of '79, October 27, 1979,
12 according to the Complaint?

13 A Yes.

14 Q Were there any Interrogatories?

15 A I'm not sure, I'll have to check.

16 Q Take a look because you didn't give me any.

17 MR. AMDURSKY: If there is any Interroga-
18 tories in your later file, George, will you
19 produce them for me? Answers to Interrogatories?

20 MR. BATTAGLIA: I didn't hear a response
21 from Mr. De More here. Apparently, he is not
22 going to respond.

23 MR. DE MORE: Whatever Uncle wants.

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(PLAINTIFF'S EXHIBIT 64 MARKED FOR IDENTIFICATION.)

BY MR. AMDURSKY:

Q I show you a series of documents pinned together marked Exhibit 64 for identification and ask you if you'd please identify it.

A It's a letter dated March 5th, 1981, from me to our representative transmitting a Summons and Complaint that was served upon Remington on February 26, 1981, in connection with the Thomsen case.

Q And the accident happened . . . the accident happened in November, November 1st, 1980?

A Yes.

(PLAINTIFF'S EXHIBIT 65 MARKED FOR IDENTIFICATION.)

Q Will you take a look at document marked Interrogatories to Defendant Remington Arms, set number one, marked Exhibit 65 for identification, and identify that?

A This is Interrogatories served on Remington by the plaintiff.

Q They contain the Answers? It looked to me, Mr. Sperling, as if there were notes on the Answers, and I don't think I've got the Answers as such. See if you've got them.
(Off-the-record discussion.)

Q Take a look at them.

52

1 A These are just notes that I wrote in.
2 Q Were formal Answers ever prepared?
3 A I don't know.
4 Q Will you find out?
5 A Uhm-hmm.
6 Q And will you send them to Mr. De More with a statement
7 that you identified them, unless you want to come . . .
8 on Exhibit 65, I assume . . . this was a model 700
9 involved?

10 A Yes.

11 Q Well, most of these contain no Answers. I mean, there
12 are no Answers there.

13 A They're not intended to be answers.

14 Q These initials, RBS, I assume, are your initials?

15 A Uhm-hmm.

16 Q For whatever they mean.

17 MR. DE MORE: What's 65?

18 MR. AMDURSKY: 65 is the Interrogatories.

19 (PLAINTIFF'S EXHIBITS 65A - 65H MARKED FOR IDENTIFICATION.)

20 Q You didn't send me any file on these, but Mr. De More
21 handed me -- or you did -- what could be a file in the
22 case of Toltzman against Remington.

23 (PLAINTIFF'S EXHIBIT 66 MARKED FOR IDENTIFICATION.)

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1 Q Do you remember the case?

2 A Uhm-hmm.

3 Q Will you identify Exhibit 66, if you can?

4 A This is a transmittal letter dated December 10th, 1981,
5 to our representative transmitting a Summons and Complaint
6 served on Remington on December 9, 1981, in connection
7 with the Toltzman case.

8 Q From this letter transmittal, are you able to say whether
9 the gun involved was a Model 700 rifle?

10 A Yes, it was alleged that it was a 700 rifle.

11 Q Is your statement in your letter of transmittal, "The
12 plaintiff's claim against Remington is based upon the
13 contention that the gun discharged upon release of the
14 safety without the trigger being pulled." Is that a
15 correct statement of what the Complaint alleged?

16 A Yes.

17 Q Was there any Interrogatories and Answers served?

18 A I don't know.

19 Q Will you find out, and if so, will you furnish copies of
20 the Answers?

21 A Uhm-hmm.

22 (PLAINTIFF'S EXHIBIT 67 MARKED FOR IDENTIFICATION.)

23 Q Will you identify Exhibit 67?

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1 A It's a letter of transmittal dated December 16th, 1981,
2 transmitting the Summons and Complaint that was served
3 on Remington on December 2, 1981, in the case of Willette
4 and Henderson.

5 Q That alleges that the accident happened on December 3rd,
6 1978; the Complaint does?

7 A Yes.

8 Q And here you say that "The Complaint alleges that the
9 XP100 pistol discharged unexpectedly with the safety on
10 "safe;" does that correctly describe what the Complaint
11 says?

12 A Yes.

13 Q Have there been any Interrogatories in the Willette case?

14 A I don't know.

15 Q If there are, will you furnish them to us?

16 A Uhm-hmm.

17 Q And their Answers?

18 A Uhm-hmm.

19 (PLAINTIFF'S EXHIBIT 68 AND 69 MARKED FOR IDENTIFICATION.)

20 Q Mr. Sperling, I show you a brochure marked Exhibit 68
21 for identification, entitled "Model 788 Bolt Action Rifle
22 Owners Manual, Remington," and will you identify it,
23 please?

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1 A It's a manual entitled "Model 788 Bolt Action Owners
2 Manual, Remington."

3 Q Can you tell us when that was published?

4 A January of '81.

5 Q By January of '81 and all the time from sometime in '74,
6 the bolt lock had been removed from Model 788's; had it
7 not?

8 A Yes.

9 Q And I call your attention to Exhibit for identification
10 marked 69, which is entitled, if that's the proper word,
11 "Remington 725 Deluxe Bolt Action High Power Rifle." And
12 I ask you if you can identify it.

13 A It appears to be a copy of a Remington 725 bolt action
14 high powered rifle instruction folder.

15 Q Can you identify when that was printed, sir?

16 A It looks like it may have been May of 1959.

17 Q That's been manufactured, generally, since that time,
18 hasn't it?

19 A I don't know.

20 Q Well, is it in manufacture now?

21 A No.

22 Q 725 off the line?

23 A Uhm-hmm.

1 Q When did they take that off the line?

2 A I don't know.

3 Q Well, the 725 was a three position safety; was it not?

4 A I believe so.

5 Q Will you look at that and tell us whether you could say
6 it was or wasn't?

7 A Well, that's why I can believe that it is, because it
8 says "three position safety lock."

9 Q That's some evidence. And that had a middle lock; it had
10 a "fire" position, a safety position, and a middle posi-
11 tion that was called the "unlock" position?

12 A There is a position called the "unlock" position.

13 Q And does that permit the gun to be unloaded without putting
14 the safety on "fire" position?

15 A It permits the bolt handle to be raised.

16 Q And the gun to be unloaded without putting it on "fire"
17 position?

18 A I assume so.

19 MR. DE MORE: If you don't know, just say
20 you don't know.

21 THE WITNESS: I don't know. I'd have to
22 read it and I don't see it right there.

23 MR. AMDURSKY: Well, read it.

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1 MR. DE MORE: You can read it.

2 MR. AMDURSKY: All right, I can read it.

3 Q Have you ever seen one of these before?

4 A No.

5 MR. DE MORE: That's Exhibit 69?

6 MR. AMDURSKY: Yes.

7 Q You're not able to tell us when Remington took this out
8 of the line?

9 A No.

10 Q Are you able to tell us when it started manufacturing
11 the 725?

12 A No.

13 Q Well, take a look at the unlock position that's shown on
14 your bulletin, and unlock position . . . rotate the safety
15 lock to unlock position between "S" -- I assume that
16 means safe -- and "F" -- I assume that means fire?

17 A Uhm-hmm.

18 Q Bolt handle can then be raised and bolt unlocked. Note:
19 Rifle cannot be fired when safety thumbpiece is set for
20 unlock position; does it not say that?

21 A Yes, it does.

22 MR. AMDURSKY: You may examine.

23 EXAMINATION BY MR. BATTAGLIA:

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1 Q In the ordinary course of your employment with Remington,
2 do you obtain copies of all pleadings that are prepared or
3 exchanged between plaintiffs and counsel representing Reming-
4 ton?

5 A Generally, yes.

6 Q And from what source do you get those pleadings?

7 A From the attorney.

8 Q The local attorney in whatever jurisdiction the suit is
9 pending?

10 A Right.

11 Q Are the pleadings, the existing pleadings, by Mr. De More
12 the only existing pleadings to which they pertain, to your
13 knowledge?

14 MR. DE MORE: That he has possession of.

15 THE WITNESS: That I have possession of.

16 Q Do you know of any other pleadings that you do not have
17 possession of and which were not supplied to us?

18 A I don't know, I suppose it's possible that one of those
19 closed cases . . . there was a pleadings toward the end that
20 wasn't supplied to me.

21 Q In supplying pleadings to Mr. De More for submittal to us,
22 did you review the files yourself to extract those pleadings
23 that were in your files?

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1 A Yes.

2 Q Now, when a rifle is sent to your factory by a party who

3 has a complaint about its performance, are reports made

4 of the tests which are performed on the rifle?

5 A I believe, generally, yes.

6 Q And would that be true of those rifles which were owned

7 by any of the 21 plaintiffs whose cases Mr. Amdursky has

8 questioned you about, if those rifles were sent to your

9 plant and were tested?

10 A Not all of them would be written.

11 Q But the files may well contain . . . one or more of the

12 files would contain reports of testing performed of those

13 rifles that were sent to you?

14 A It's possible, yes.

15 Q With regard to the Lightsy litigation that was claimed,

16 that was a Model 700 rifle litigation?

17 A Yes.

18 Q The claim in that litigation as indicated by the Complaint --

19 withdraw that. In the Lightsy case, was the claim that

20 the rifle fired while the bolt was being moved with the

21 safety in the "fire" position --

22 MR. DE MORE: You mean as written in some

23 document?

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1 MR. BATTAGLIA: No, I don't think the
2 Complaint provides that detail, but my notes
3 show that when Mr. Amdursky was questioning, that
4 was some of the testimony that was given.

5 THE WITNESS: I don't remember in that
6 specific of detail. I know that the Co-
7 Defendant was claiming that he had the gun in
8 his hand and that it went off without him
9 pulling the trigger. I can't remember whether
10 he was raising the bolt or just moving the
11 gun around or what.

12 BY MR. BATTAGLIA:

13 Q Do you know whether any witness statements were obtained
14 by Remington in the course of the discovery in that
15 litigation?

16 A I don't believe so.

17 Q How long do you keep records in litigation matters at
18 Remington, speaking of product liability litigation.

19 A I would say ten years.

20 Q Do you have the complete files at your office for all of
21 the litigation which we have been discussing here for the
22 last couple of days that you have been testifying . . .
23 the 21 cases that you supplied us with?

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MR. DE MORE: Object to the form of the question. What do you mean "complete files?"

MR. BATTAGLIA: Your complete file, whatever it was at the time that each matter was enacted.

THE WITNESS: Whatever I have in my file would be at my office.

MR. DE MORE: And that's what's here?

THE WITNESS: Well, not the complete file. It's what they asked for.

BY MR. BATTAGLIA:

Q What else would be in the files besides the documentation that is supplied to us?

A In any given file?

Q In any given file.

A It would start off with the Complaint and Summons and then probably a letter from the attorney saying thank you, and then Interrogatory requests and copies of what I sent the attorney, letters back and forth from a representative to attorney, to ourselves, anything filed with the court that the attorney sends us.

Q Were any of the 21 cases that we've discussed . . . I guess there are 23 . . . but for the latest two that were

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1 supplied without a file, were any of those 23 cases
2 actually tried to a verdict?

3 A Yes.

4 Q How many of those 23?

5 A Can I see a list of the 23, or do we have anything --

6 Q We'd have to read them off to you, I guess, as we go.

7 MR. DE MORE: I got a list.

8 THE WITNESS: I'll just read down the
9 list and say what I know.

10 A Lange was tried to a verdict. Stark was disposed of --

11 MR. DE MORE: Do you want to know what
12 the verdict was?

13 MR. BATTAGLIA: Yes, if he knows.

14 A Defendant's verdict in Lange. Stark was settled before
15 trial. Lopez was settled before trial. Van Allen was
16 tried with a defendant's verdict. Spease is pending.
17 See is pending. Thomsen is pending. Covalt was settled
18 before trial. Brown was settled before trial. Lightsy
19 was settled before trial. Slatter is pending. Hansen
20 is pending. Parker was dismissed. Hass was settled
21 before trial. Mueller was tried with a defendant's ver-
22 dict. Sylvester was settled before trial. Phillips was
23 dismissed. Hickman (phonetic) was tried with a

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1 defendant's verdict. Clark was dismissed. Coates was
2 settled before trial. Henderson-Willette is pending.
3 Toltzman is pending. . . those were the two --

4 Q Just with regard to the ones that were dismissed; Parker,
5 Phillips, and Clark . . . how were they dismissed?

6 A Parker was dismissed by action of the plaintiff.
7 Phillips was dismissed because of Oregon's Statute of Repose.
8 Clark was dismissed for failure to prosecute.

9 Q In Hickman, the allegation that a tang safety accidentally
10 discharged . . . do you recall that?

11 A Yes, I believe the allegation was that the safety design
12 was unsafe.

13 Q Right. In the Complaint there was also an allegation of
14 a manufacturing defect. Did you or were you able, through
15 any discovery in that case, to obtain a particularization
16 of the plaintiff's claim as to the alleged manufacturing
17 defect?

18 A I don't remember that coming up at trial.

19 Q Okay. In the Brown litigation, in Interrogatory 10 in the
20 Brown litigation, the question was "As to the specific
21 model of rifle involved in this case, had the defendant
22 received, within the past five years, complaints regarding
23 defects?" Ten "A" asked "Whether the Complaint specifically

1 referred to the discharge of the rifle when the safety
2 was put in the "off" position and if so, state the date or
3 dates." Then, in response, apparently as Exhibit "C" to
4 Remington's Answers, there is a list of apparently 14
5 firms or persons who are listed in response to that
6 Interrogatory; do you have a copy of that, sir?

7 MR. DE MORE: What are you looking at?

8 MR. BATTAGLIA: I'm looking at the adden-
9 dum which is in answer to 10-A of the Interrog-
10 atories. It's listed as Exhibit "C" to your
11 Answers in this case.

12 MR. DE MORE: Okay.

13 Q Do you know the date as of which this document was pre-
14 pared? It appears to be verified by you March 30, 1972.

15 A What?

16 Q March 30, '72, there is an affidavit verifying your
17 Answers to the Interrogatories; do you see that?

18 A Yes.

19 Q Did you have some file at that time from which this infor-
20 mation was taken, the information which appears on the
21 sheet, Exhibit "C" in response to question 10-A, one of
22 the Interrogatories?

23 A That would have been prepared at my request by the people

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1 who keep the non-litigation complaint file.

2 Q. Now, who are the people who keep the non-litigation
3 complaint file?

4 A It would be . . . you mean now?

5 Q Now, we'll start with now.

6 A Jim Steckel (phonetic) at Ilion, New York.

7 Q What's his title now?

8 A He is Manager of Product Services at Firearms, something
9 like Manager of Product Services Firearms.

10 Q Who was his predecessor in that title or position?

11 A I believe it was . . . his immediate predecessor was Ed
12 Sinowitz (phonetic).

13 Q When did Mr. Sinowitz leave the position and Mr. Steckel
14 take over?

15 A I'm guessing around 1980, 1979.

16 Q How long was Mr. Sinowitz in the position?

17 A Two years, perhaps three years.

18 Q Who preceded Mr. Sinowitz?

19 A Lou Menard.

20 Q How long was Mr. Menard in the position?

21 A Since the late 50's, early 60's.

22 Q When Mr. Menard left the position and Mr. Sinowitz took
23 over and when Mr. Sinowitz left and Mr. Steckel took over,

de

1 do the files remain in the same office for the incoming
2 individual?

3 A Right.

4 Q Okay. Can you prepare, from the files that are available,
5 a list of all persons who made complaints regarding dis-
6 charge of 700 rifles while the safety was placed in the
7 "Off" position? In other words, updating this 10-A-1
8 list from the time of its preparation apparently from '72
9 to the date of the accident, which would be, I guess,
10 October of '78. Do you have someone at Remington to do
11 that from the files that exist?

12 A Well, we have a three year retention schedule in non-
13 litigation complaints.

14 Q So you're saying at the present time you wouldn't have
15 any files that go back to '78 in regard to non-litigation
16 complaints?

17 A No, it would be three years from the last correspondence.
18 If it was a running correspondence, it could very well --

19 MR. DE MORE: I'll have him look and see
20 what they got.

21 Q Okay. Have any employees of Remington from time to time
22 summarized the number of complaints received by Remington
23 on particular models of rifles, for use by management

- 1 in any manner?
- 2 A I don't know.
- 3 Q You haven't seen any such reports of that kind?
- 4 A No.
- 5 Q With regard to the initiation of the recall of the 600
- 6 rifle, with regard to the initiation of recalls generally,
- 7 does Remington have any written criteria which are
- 8 followed in issuing a recall?
- 9 A Yes.
- 10 Q What is the form of the written criteria? Is it a memo,
- 11 a brochure, a pamphlet?
- 12 A It's a section describing generally when a recall would
- 13 be authorized.
- 14 Q Okay. It's a section of what?
- 15 A Well, a section of plant operating rules, corporate operat-
- 16 ing rules or something like that.
- 17 Q Do you have a copy in your possession?
- 18 A Not in my possession, no.
- 19 Q Where are they located?
- 20 A It would be located in Bridgeport, Connecticut.
- 21 Q Apparently there are some plant operating rules that con-
- 22 tain this recall procedure?
- 23 A Right.

1 Q What else is contained in that plant or company operating
2 rules that deals with product quality or product safety,
3 if anything?

4 A I think that would be it.

5 MR. BATTAGLIA: We'd like to get a copy
6 of those, Mr. De More, those written rules.

7 MR. DE MORE: I don't see where that has
8 anything to do with this.

9 MR. BATTAGLIA: You don't think if they
10 failed to issue recall for the 700 that's not
11 relevant?

12 MR. DE MORE: There is no question that
13 they have never recalled the 700.

14 MR. BATTAGLIA: The question is whether
15 by their own criteria they should have. It
16 sounds like a good question to me.

17 MR. DE MORE: Okay.

18 BY MR. BATTAGLIA:

19 Q Are you familiar with any of the methods by which Reming-
20 ton ceased to prevent movement of the trigger travel screw
21 from vibration?

22 A No.

23 Q That's not in your area. In the Parker litigation, did

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1 you ever ascertain from any discovery of inspection of
2 that file the exact procedure which was followed by the
3 person unloading that gun at the time that it allegedly
4 unloaded?

5 A I don't think we did.

6 Q I'm asking specifically was there a deposition taken of a
7 particular individual who was --

8 A I don't believe so.

9 Q Have any Remington personnel been deposed in litigation
10 connected with the 700 rifle and specifically in regard to
11 claims that the 700 was defectively designed and manu-
12 factured, other than this litigation, of course.

13 A Depositions have been given --

14 Q With regard to alleged defect of the design or manufacture?

15 A Design or manufacture?

16 Q Yes.

17 A Yes.

18 Q Who has testified on Remington's behalf in that regard?

19 A John Linde, Bill Warren, those are the only Remington
20 employees that come to mind.

21 Q We know who Mr. Linde is; who is Mr. Warren?

22 A Mr. Warren is an employee of Remington that is now Manager
23 of Quality Control.

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1 Q And in which litigation did Mr. Linde testify, and in which
2 did Mr. Warren testify?

3 A Are you talking about the trial or deposition of both?

4 Q Deposition.

5 A Mr. Linde was deposed in the See case. I believe he was
6 in the Lange case. I think he may have been in the Stark
7 case.

8 Q This is Mr. Linde?

9 A Mr. Linde, right. That's all I see in this 700.

10 Q What about Mr. Warren? In which did he testify?

11 A Mr. Warren would have been deposed in the Lopez case. I
12 think in the Van Allen case. That's all I can remember.

13 Q Do you have any copies of the testimony given by those
14 gentlemen and records in your office, EBT or deposition
15 testimony?

16 A I don't believe so. I don't think so, but I'm really not
17 sure.

18 Q Okay. In the Parker litigation, Interrogatory 13 asked
19 whether Remington had received any claim alleging injuries
20 to any person because of faulty design or manufacture of
21 the 700 BDL rifle anytime before or after November 21,
22 1976. Am I correct that Remington's Answers to that Inter-
23 rogatory state the answer to be no?

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A What answer is that?

A. Thirteen. Could you look at question 13 and the answer?
I just want to know if that's the answer. I'm referring
you to the Answers which bear your verification of March
5th, '79?

A Uhm-hmm.

Q Is the Answer to 13 --

A That seems to be applicable to 13.

Q Is the Answer to 13 no?

A Apparently, yes.

Q Do you know whether that's an accurate statement at the
present time as to the BDL? Is the BDL the same as the
ADL rifle, or is there some distinction that you didn't
have complaints about the BDL but you did about the ADL?

A The BDL has a different designation.

Q The same rifle, essentially?

A The BDL is a little higher grade.

Q Okay. With regard to the claims in this litigation, does
Remington claim any limitation of warranties of any kind
as a result of any documents which allegedly accompanied
the sale or should have accompanied the sale of the rifle?

MR. DE MORE: I'm going to object to the
form of that. I don't know at this point.

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MR. BATTAGLIA: I don't either, that's why I'm asking.

MR. DE MORE: I don't, as I sit here, remember what documents accompanied the sale. I don't know if we ever established what documents your man had when he bought the gun.

MR. BATTAGLIA: Well, I can ask him another way.

Q Does Remington issue any documents with this rifle which purports or attempts to limit warranties that would normally accompany the sale?

A No.

MR. DE MORE: That's a better question.

Q In Clark there was a reference to testing. Let me ask you about the documents in that case. Did Remington ever engage any outside testing firms to test the 700 rifles between 1971 and 1978 for any reason?

A Well, we have engaged outside experts to testify in various cases for us who would analyze the gun and the design, but we have never as a company said, "Here, take a look at this particular model gun." We do all our design work in-house.

Q Okay. You have, I take it, engaged experts to assist you

1 with various litigation and to review various weapons?

2 A Right.

3 Q And when such reviews were performed, to whom were the
4 reports prepared by those experts transmitted?

5 A In the cases where they prepared written reports, they
6 would be sent to our locally retained counsel.

7 Q Would you obtain copies of those as well?

8 A Generally, yes.

9 MR. BATTAGLIA: We would like, Mr. De More,
10 to obtain copies of any experts analyses per-
11 formed in connection with any of the 23 cases
12 that have been mentioned in this discovery,
13 the list of which Mr. Sperling went over a
14 short time ago, if those weapons involved was
15 a 700 rifle.

16 MR. DE MORE: I'll take that under advise-
17 ment.

18 Q Was Clark a 600 case or a 700 case?

19 A Six hundred.

20 Q Do you have a quality control program with regard to in-
21 specting weapons after their manufacture is complete?

22 A Yes.

23 Q Who's in charge of the program? I take it you, as an

1 attorney, are not intimately familiar with the statistical
2 procedures you use?

3 A Well, every gun is inspected before it leaves the factory.
4 They have various inspectors, culminating in the final
5 inspector. Then there's the quality control audit that
6 would be headed by Bill Warren.

7 Q I take it the inspections and the quality control audit
8 are two separate procedures?

9 A Yes.

10 Q How many different inspections are actually performed to
11 each rifle before the quality control audit, if you know?

12 A I don't know.

13 Q Is there some written protocol or procedure manual that
14 sets forth the inspections and the quality control audit
15 procedures?

16 A I believe there probably is.

17 Q Would you know the title or the heading of such a document?

18 A No, I don't.

19 Q In the quality control audit phase of the inspection test-
20 ing, how many weapons are subjected to testing in that
21 aspect or that end of it?

22 A I don't know.

23 Q Is it a hundred percent testing, or is a selective sample

1 taken for additional testing?

2 A Well, I'm not sure if I'm describing the whole quality
3 control procedure, but one of the quality control pro-
4 cedures that I'm describing when I say audit is the one
5 where after the gun has passed everything and is packed
6 and sitting in the warehouse, they will withdraw samples
7 of that; and I don't know what the random sampling is, the
8 number, but that's the procedure.

9 Q Was the subject of a possible recall of the 700 rifles
10 ever discussed among Remington management, to your know-
11 ledge?

12 MR. DE MORE: When?

13 Q At anytime between '73 and '78.

14 A No.

15 Q To your knowledge, was any recommendation ever made by a
16 Remington employee or independent consultant that a recall
17 of the 700 rifles be taken?

18 MR. DE MORE: Same time period?

19 MR. BATTAGLIA: Same time period.

20 MR. DE MORE: In writing.

21 THE WITNESS: No, not to my knowledge.

22 Q With regard to the Answers to the Interrogatories that
23 were discussed earlier today, to the effect that a two

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1 position safety was more safe than a three position safety.
2 do you know from what individual source in the Remington
3 organization you obtained that information?

4 A No.

5 Q Would you have obtained that in writing -- strike that.
6 I don't like would. Did you obtain that in writing?

7 A I believe I must have. It was written out in paragraph
8 form.

9 Q And did you incorporate that position of Remington from
10 time to time in response to various Interrogatories in
11 different litigation?

12 A That I don't know. I know at least in that one.

13 Q Where would that document be today, if it exists?

14 A If it existed and I got it, it would probably be in the
15 file that that answer came from. I forgot what it was.

16 Q I forget which file we were talking about at that time.
17 I can't recall whether it was Stark or not, but we'd ask
18 you to make a search of that file to see if that response
19 exists.

20 MR. DE MORE: You let me know which file
21 it was.

22 MR. BATTAGLIA: I think it was Stark,
23 according to my notes, but we'll be more

1 specific when we get the transcript of this
2 examination.

3 MR. DE MORE: I'd hate to have him look
4 at the wrong file.

5 (EXHIBIT 70 MARKED FOR IDENTIFICATION.)

6 BY MR. BATTAGLIA:

7 Q Will you look at that document, sir, and identify it for
8 me, if you can?

9 A This is a letter of transmittal from me to our attorney
10 in the Stark case, transmitting a summary of the changes
11 made to the trigger mechanism of the Model 700 between
12 February 21, '73, and December 7th, 1977.

13 Q Okay. In addition, is there

14 A And in addition, it has copies of the change notices
15 accompanying those changes.

16 Q All right. In the supplemental or third set of Interroga-
17 tories to Remington in the Stark case, there was mention
18 of an inter-company memorandum dated February 21, '73,
19 from Mr. Selvas to Mr. R. P. Kelly and then Remington's
20 Answers . . . excuse me, the Interrogatories stated that
21 a copy of the document was attached, but I did not find a
22 copy attached to my Interrogatory. Do you have a copy of
23 that memorandum somewhere?

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1 A I supplied to George.

2 Q Could I see that?

3 MR. DE MORE: What is it?

4 MR. BATTAGLIA: It's a memorandum of '73
5 from S. N. Selvas (phonetic) to R. P. Kelly,
6 concerning Model 700 instruction folder. Do
7 you have that somewhere hidden?

8 Q While Mr. De More is looking for that, let me ask you a
9 couple more questions. With regard to the quality control
10 function of the plant, does quality control or that depart-
11 ment maintain a record of all communications from whatever
12 source regarding the quality or performance of the product
13 which it supervises or inspects?

14 A I don't know.

15 MR. DE MORE: I got to object to the form
16 of that anyway.

17 Q Mr. Sperling, in the Hansen litigation, the documents
18 indicate that the plaintiff's expert was an L. S. Martin.
19 Do you recall whether you obtained a report from Mr.
20 Martin at any time of his conclusions regarding the Reming-
21 ton rifle in issue?

22 A I don't believe we have.

23 Q Could you search your file, the Hansen file, to see if

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1 that exists and if so, we'd like a copy of that.

2 MR. DE MORE: This is the report of the
3 plaintiff's expert?

4 MR. BATTAGLIA: If you managed to obtain
5 a copy.

6 Q As a result of Remington's investigation of the Hansen
7 gun, do you recall what Remington's conclusion was as to
8 whether the gun was defective in any respect?

9 A Yes.

10 Q What was the conclusion?

11 A It was not defective in any respect.

12 Q Do you know the difference, if there is any, between the
13 788 and the Model 700?

14 A I don't know the difference.

15 Q Is the Model 788 part of the Model 700 line, or is that
16 a separate line?

17 A Separate line.

18 Q Did the Model 788, Mr. Sperling, take the place of the 600
19 rifle after that was discontinued?

20 A No.

21 Q Interrogatory 21 in the Hansen matter, Mr. Sperling, indi-
22 cates that the Remington Model 700 bolt action rifle had
23 been tested or approved by the Consumer Guide of 3323

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1 West Main Street, Skokie, Illinois. Do you have a copy of
2 the document or brochure or report produced by that agency
3 in connection with the testing of the 700 bolt action?

4 A I don't.

5 Q Would that document be among the records of Remington in
6 some location?

7 A It might, I could look for it.

8 Q Could you do that, sir, and if that exists, we'd like to
9 get copies of that.

10 A In the Hansen case?

11 Q And specifically in regard to Interrogatory 21.

12 MR. DE MORE: I assume that we'll wait
13 and sort through and see what people want and
14 then decide, after we get a record.

15 Q Interrogatory 23 of the Hansen case requests a statement
16 as to whether there had ever been any complaints made to
17 the Defendant Remington concerning the inability to eject
18 a shell from the chamber without first placing the safety
19 in the "off" or "fire" position of the Remington Model 700
20 bolt action rifle. If so, state . . . and the Answer says,
21 "See attached sheet." And I couldn't find an attached
22 sheet to "C". Do you have the attachment that is referred
23 to in that Answer, this Answer 23?

1 MR. BATTAGLIA: Would you locate that
2 for us, Mr. De More, and send that along?

3 MR. DE MORE: If whatever that attach-
4 ment is available, I will, certainly.

5 MR. BATTAGLIA: I take it you do not have
6 a copy at the present time?

7 MR. DE MORE: It's not in here.

8 Q Mr. Sperling, who, in the Remington organization, would
9 be most knowledgeable as to the reason that the bolt lock
10 was removed from the 788 rifle?

11 A I don't know.

12 Q Do you know what individuals participated in that decision
13 at the time it was made?

14 A No.

15 Q What records would Remington have which would indicate
16 the events and discussions leading up to that decision?

17 A I don't know. There is usually a design change request
18 order that would be on file.

19 Q For each change in a rifle there has to be an initiating
20 design change request from some source or person?

21 A That's the standard practice. I hate to say all the time.

22 Q But that's the accepted and customary procedure?

23 A That's what we usually do.

1 Q And once that design change request is made, to whom does
2 it go, in the ordinary work of your business?

3 A To the Research Department. I can only answer generally.
4 I don't know who individually.

5 Q Once it gets to the Research Department, what's done with
6 it then?

7 A I guess it's approved by a knowledgeable person in the
8 Research Department and then I don't know if there's a
9 further step toward in between that and implementation.

10 Q Okay. Could you, with regard to the change in the 788,
11 locate those documents which relate to the removal of the
12 bolt lock?

13 A I'll try.

14 MR. DE MORE: I'm sure he can locate them,
15 but I'm not going to give them to you. I
16 don't see where they are in any relevance to
17 this Model 700.

18 MR. AMDURSKY: If you announce that, we
19 might as well meet the issue right now.

20 MR. BATTAGLIA: We have that on the record.
21 It's certainly your privilege to take that
22 position.

23 MR. DE MORE: Thank you.

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1 BY MR. BATTAGLIA:

2 Q. Are there any later lawsuits which have been brought since
3 the documentation supplied to us was supplied which are
4 not reflected among the proceedings that we have been given?

5 A Yes, one I brought up with me.

6 Q An additional one?

7 A Yes.

8 (EXHIBIT 71 MARKED FOR IDENTIFICATION.)

9 Q Mr. Sperling, could you take a look at Exhibit 71 and, if
10 you could, identify that for me?

11 A This is a letter of transmittal to our representative
12 attaching a Summons and Complaint served on Remington on
13 November 8, 1982, in connection with the Nigro case.

14 Q Can I take a look at that? According to these pleadings,
15 the action is pending in the Court of Common Pleas in
16 Allegheny County, Pennsylvania.

17 A Yes.

18 Q And this action involves a Remington Model 700, .30-06
19 BDL?

20 A Yes.

21 Q Do you know the total number of complaints or allegations
22 made between 1970 and 1978 by any individual to the effect
23 that a Model 700 rifle had discharged while a round was

1 chambered without the trigger being pulled?

2 A No, not offhand.

3 Q Do you have any records which would reflect or contain that
4 information, either in summary form or in actual complaint
5 records?

6 MR. DE MORE: I think he's already
7 answered that.

8 THE WITNESS: I'd have to compile it.

9 Q It may exist, though?

10 A No, not in summary form, but the records of the cases.

11 Q Would exist, all right. We've already marked Exhibit 51
12 which contains . . . and I think you already discussed this
13 with Mr. Amdursky . . . a listing of 11 pages of complaints
14 who either filed a complaint or a suit alleging that a
15 Model 700 discharged when a live round was chambered. Do
16 you recall discussing that document with Mr. Amdursky?

17 MR. AMDURSKY: Fifty-one, yes.

18 THE WITNESS: Yes, right.

19 Q Okay.

20 MR. AMDURSKY: And I asked him to get us
21 the dates of them.

22 Q Right. With regard to that listing, who prepared that
23 listing?

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1 A Jack Chisnall.

2 Q What is Mr. Chisnall's position?

3 A He is Supervisor of Product Services.

4 Q And is he the custodian of the records which relate to

5 those individual complaints?

6 A Yes.

7 Q What file does he keep those records in? Is it one file

8 or one listing or group of files?

9 A He has a . . . probably a file on each complaint.

10 Q And how long does he retain files on complaints?

11 A Well, so we don't have a systematic difficulty, when we

12 talk about complaints, we talk about it as pre-litigation

13 letters saying, "I had this problem." It's a complaint

14 letter. He would maintain that three years from the last

15 Q Activity in the file?

16 A Yes.

17 Q Do you know when the document that you're holding, the 11-

18 page listing, was prepared by Mr. Chisnall?

19 A Well, it was prepared sometime prior to April 30, 1980,

20 when he wrote it up.

21 Q Mr. Sperling, on that listing which is part of Exhibit 51,

22 at the bottom of each person listed, there is a reference to

23 a rifle. Does that indicate the model and caliber of the

1 rifle involved in each complaint?

2 A Yes.

3 Q That's true right through the 11 pages?

4 A Yes. Some don't have the caliber listed, but when they do,
5 they have it off to the right, aside of the model.

6 Q With regard to the claims in the Lopez case, did you con-
7 duct any discovery in that case of the plaintiff in the
8 form of a deposition or an examination before trial? When
9 I say "you," I mean Remington or Remington's local counsel.

10 A I believe . . . well, I know we took the deposition of the
11 gun handler, and I don't know if we took one of Lopez
12 himself.

13 Q To your knowledge, did Remington ever do a safety study of
14 various bolt action rifles with specific emphasis on safety
15 mechanisms of the rifle, either on April 4th, 1974 or at
16 any other time?

17 A I believe we have some litigation prepared, lists of com-
18 petitive models on the market and what they contain in the
19 way of safety and trigger mechanisms. I don't believe . . .
20 it was made for litigation purposes, not for study. That's
21 my knowledge. I don't know what the Research Department
22 has done.

23 Q With regard to those documents that you recall, do you

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1 recall what litigation or in connection with what litigation
2 tion those documents were prepared?

3 A It would be strictly guessing.

4 Q Okay. Do any other attorneys at Remington supervise
5 products liability litigation such as yourself?

6 A Yes.

7 Q Who?

8 A A man by the name of Bill Erickson (phonetic).

9 Q Is he your subordinate, your equal, or some other man
10 related to your in some other manner?

11 A He is a patent attorney who was brought in several months
12 ago just to pick up the slack.

13 Q For the period in question here, between '73 and '78, were
14 you the only attorney supervising product litigation?

15 A Yes. May I correct one statement I made to you at the
16 beginning? We were going through the cases to decide what
17 the ultimate dispositions of them were. I mentioned that
18 the Slater case was still pending --

19 MR. DE MORE: Slater?

20 THE WITNESS: S-L-A-T-T-E-R .

21 Q You said pending, correct?

22 A And it should be disposed . . . it was disposition before
23 trial

1 Q It was settled before trial?

2 A Settled before trial.

3 MR. BATTAGLIA: Thank you.

4 RE-EXAMINATION BY MR. AMDURSKY:

5 Q Let me ask you one or two questions. Did you have any
6 input whatever when the bolt locks were taken off the 788?

7 A No.

8 Q As a matter of fact, as I recollect it, you told me that
9 you didn't know about it?

10 A I only learned of it after it happened.

11 Q Did you have any input whatever when the bolt locks were
12 taken off the 700's?

13 A No input as to taking them off, no.

14 Q Who would be in charge of the decision to take the bolt
15 locks off the 700?

16 A Research Department.

17 Q And where is that located and who is in charge of it?

18 A It's Ilion, New York, and the head of research at the
19 present time is Clark Workman (phonetic).

20 Q Is it your belief that he would know more about the deci-
21 sion to take the bolt lock off the 700 than anybody else
22 in your company?

23 A Well, he would say someone in research would know. I

1 don't know whether he himself, as the Manager of the
2 department . . .

3 Q Was there a market research made showing the customer
4 interest in bolt lock features in Model 700?

5 A Yes.

6 Q All right. And I want to examine that market research.

7 MR. DE MORE: When was that prepared?

8 MR. AMDURSKY: And I want Mr. St. John,
9 who signed this letter here, to tell me
10 about it and bring all the market research
11 that they had which will show that the cus-
12 tomer interest in the bolt lock feature and
13 Model 700 had declined and that as a result,
14 Remington removed it.

15 MR. DE MORE: Well, so you understand,
16 and let me make my statement . . . it's my
17 position . . . you'll get time to put every-
18 thing on the record . . . I just want to
19 make my position clear for the record. That
20 it's my position, on behalf of Remington,
21 based on my understanding of the law in that
22 state and especially the case of Rainbow vs.
23 Ilya (phonetic) Brothers --

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1 MR. AMDURSKY: I've read the record, go
2 right ahead.

3 MR. DE MORE: Do you want to say some-
4 thing, or may I? Okay. That any post-accident
5 design change is inadvisable. In this
6 instance, anything that took place up to 1973,
7 we will produce. Between 1973 and 1978, you
8 have here all of the Complaints . . . anything
9 that took place after this accident I'm not
10 going to produce.

11 MR. BATTAGLIA: For the record, just so
12 I have my position clear --

13 MR. DE MORE: Unless you can show me the
14 law contrary to my understanding.

15 MR. BATTAGLIA: I join in Mr. Amdursky's
16 request . . . we're entitled to anything that
17 is reasonable and necessary to the prosecution
18 and anything which may lead to admissible
19 evidence, and on that basis I think we're
20 entitled to this information. I would join
21 in that request.

22 MR. AMDURSKY: I want the market re-
23 search, that's what I want.

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1 MR. DE MORE: You haven't even established
2 when it was done. If it was done after this
3 man's accident, I'm not going to voluntarily
4 produce it. It's that simple.

5 MR. AMDURSKY: You better look and see
6 when it was done.

7 MR. DE MORE: Well, why don't you ask
8 him.

9 MR. AMDURSKY: He doesn't know.

10 MR. DE MORE: Somewhere you asked him --

11 BY MR. AMDURSKY:

12 Q Do you know anything about the market research over the
13 past several years, back of May 13th, 1982, that shows
14 that customer interest in the bolt action feature of the
15 Model 700 rifle has declined?

16 A Yes.

17 Q Now, will you tell us about that?

18 MR. DE MORE: Just when it was done.

19 THE WITNESS: I believe it was done
20 either '79 or '80.

21 MR. DE MORE: Okay.

22 MR. AMDURSKY: Well, I want to see it,
23 that's all. The one I have doesn't show any

1 such thing, so you produce me the one that
2 this letter of May 13th, 1982, was based on.

3 MR. DE MORE: Why don't we have that
4 letter marked.

5 (EXHIBIT 72 MARKED FOR IDENTIFICATION.)

6 MR. AMDURSKY: Well, let me ask a few
7 questions.

8 Q Have you seen this, Exhibit 72?

9 A I don't remember seeing it.

10 Q Is it Remington's position that the bolt lock was removed
11 because the market interest, the market research over the
12 past several years shows that the customer interest in the
13 bolt lock feature on the Model 700 rifle declined?

14 MR. DE MORE: I'll object to the form
15 of the question. I'm not going to let him
16 answer that.

17 MR. AMDURSKY: He says he knows about it.

18 MR. DE MORE: I said I'm not going to
19 let him answer the question.

20 Q Do you say, by the way, that removing the bolt lock,
21 elimination of the bolt lock, simplified loading and un-
22 loading?

23 MR. DE MORE: Same objection. I'm not

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going to let him answer it.

Q And if there had been no bolt lock on a gun manufactured in 1973, would that have simplified the loading and unloading of that gun?

MR. DE MORE: I'm not going to let him answer it, not within his knowledge. He is the corporate attorney.

MR. AMDURSKY: What?

MR. DE MORE: He is the corporate attorney. You can ask Mr. Linde that when he comes.

MR. AMDURSKY: That's all right. Let me put it this way --

MR. DE MORE: You can put it anyway you want, but I'm not going to let him answer it.

MR. AMDURSKY: I know, let me ask him this question.

Q You're a corporate attorney, but in charge of all this litigation, do you know whether the elimination of the bolt lock of the 700 in 1973 would have simplified loading and unloading of the gun?

MR. DE MORE: Same objection.

MR. AMDURSKY: You can answer that yes or no.

1 MR. DE MORE: I'm not going to let him
2 answer it. I want to get a copy of that.

3 MR. AMDURSKY: Haven't you had it yet?
4 You mean nobody bothered to provide you with
5 that?

6 MR. DE MORE: Is that a question or a
7 statement?

8 MR. AMDURSKY: I was asking you.

9 BY MR. AMDURSKY:

10 Q Are you familiar, Mr. Sperling, of bolt lock removal on
11 competitive guns?

12 A No.

13 Q Did you know, in 1973 or 1974, that a Mossberg gun had no
14 bolt lock on which permits unloading with the safe on?

15 A No.

16 Q Did you know that on the western field, guns had no bolt
17 lock on which permitted unloading with the safe on; did you
18 know that in 1973 or '74?

19 A No.

20 Q Did you ever hear of taking the bolt lock off on a rifle
21 of the general nature of a 700 prior to the fact that it
22 was taken off by your company on its Model 1978 (sic) in
23 1974?

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MR. DE MORE: I object to the form of that.

MR. AMDURSKY: I want to know if he
heard about it.

MR. DE MORE: I didn't understand the
question.

MR. AMDURSKY: Well, probably it was
unintelligible. I'll see if I can put it
again.

Q In 1973 or '74, there came to your attention that the bolt
lock had been removed from the Model 788; is that true?

A No.

Q When did you first know?

A I don't know. It was sometime after the event.

Q Had you ever heard back, from the time that you did know
after the event, that the bolt locks had been commonly
removed from other guns?

MR. DE MORE: Object to the form of that.

MR. AMDURSKY: All right.

(Conclusion of Proceedings.)

* * * * *

C E R T I F I C A T E

STATE OF NEW YORK)
 COUNTY OF ONONDAGA) ss.:
 CITY OF SYRACUSE)

This is to certify that I am a Notary Public for the State of New York; that I attended and reported the above-entitled proceedings; that I have compared the foregoing with my original minutes taken therein, and that it is a true and correct transcript thereof, to the best of my ability, and all of the proceedings had therein.

Helen F. Davis
 HELEN F. DAVIS

DATED: December 16, 1982