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5 ATTORNEYS FOR PLAINTIFFS

7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

9 JEFF DAHL and KAREN DAHL,  
10 As Next Friends of JONATHAN  
11 DAHL, a Minor

12 Plaintiffs,

13 v.

14 REMINGTON ARMS COMPANY, INC.,

15  
16 Defendants.

Case No. \_\_\_\_\_

PLAINTIFFS ORIGINAL  
COMPLAINT

JURY DEMAND

17  
18 COME NOW, JEFF DAHL and KAREN DAHL, As Next Friends of M. JONATHAN  
19 DAHL, A Minor and for their cause of action state as follows:

20 I.

21 PARTIES

- 22 1. Plaintiffs are residents and citizens of Deeth, Elko County, Nevada.  
23 2. Defendant REMINGTON ARMS COMPANY, INC. ["REMINGTON"] is a  
24 Delaware corporation and can be served with process by serving its registered agent CT  
25 Corporation System, 906 Olive Street, St. Louis, Missouri 63101.  
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## II.

JURISDICTION AND VENUE

3. At all times relevant to this cause of action, Defendant REMINGTON has been doing business within the state of Nevada. Furthermore, the Defendant placed its defective product, the Remington 700 Rifle, into the stream of commerce within the state of Nevada.

4. The jurisdiction of this Court over the subject matter of this action is predicated on 28 USC § 1332. The amount in controversy exceeds \$50,000.00 exclusive of interests and costs.

5. Venue is proper because Plaintiffs reside in this district.

## III.

ALLEGATIONS COMMON TO ALL CLAIMS

6. It has become necessary to bring this suit as a result of the serious and permanent injuries suffered by JONATHAN DAHL due to the discharge of a Remington 700 rifle.

7. On or about December 31, 1992, Jim, Jonathan's brother, was about to clean the rifle in question. Jim expelled the cartridges from the rifle by properly implementing what is commonly referred to as the "bolt action." Though three cartridges were expelled, Jim appropriately operated bolt action several times in order to ensure that no cartridges remained within the chamber or the magazine of the rifle.

8. Moments later and prior to its cleaning, the rifle suddenly and without warning discharged, tragically shooting JONATHAN DAHL in the face and hands, resulting in severe injuries.

## IV.

BREACH OF WARRANTY

Plaintiffs would show that Defendant, REMINGTON designed, manufactured, assembled, fabricated, constructed, and/or sold the Remington 700 rifle in a defective condition and

1 | therefore breached an implied warranty of merchantability. Defendant was, and is now, a  
2 | merchant in the business of manufacturing, designing, constructing, and selling such rifles.

3 | Specifically, Plaintiffs would show that the rifle as provided, was unfit for the ordinary  
4 | purposes for which such product is used. Therefore, Defendant, REMINGTON has breached  
5 | the implied warranty of merchantability. Defendant's breach of such warranty was a producing  
6 | cause and/or a proximate cause of the severe injuries and damages sustained by Plaintiffs.

7 | Upon the trial of this case, Plaintiffs would also show that Defendant, REMINGTON  
8 | breached expressed warranties and the implied warranty of fitness for particular purpose. At  
9 | the time that Defendant, REMINGTON placed its rifle into the stream of commerce, it knew  
10 | or should have known of the particular purpose for which such product is used. Furthermore,  
11 | the Defendant REMINGTON knew or should have known that buyers, such as the Plaintiffs,  
12 | would rely on REMINGTON's skill and/or judgment to select or furnish a suitable product.  
13 | Defendant REMINGTON thereby created an implied warranty that the rifle was fit for a  
14 | particular purpose and such warranty inures to the benefit of Plaintiffs. Because the rifle was  
15 | in fact not suitable for the buyer's particular purpose, REMINGTON breached the implied  
16 | warranty of fitness for particular purpose. Such breaches of these expressed and implied  
17 | warranties of fitness for particular purpose by REMINGTON were a producing cause and/or a  
18 | proximate cause of the severe injuries and damages sustained by Plaintiffs.

19 | V.

20 | NEGLIGENCE

21 | Plaintiffs would show that Defendant REMINGTON was negligent in designing,  
22 | manufacturing, marketing, and/or distributing of the Remington 700 Rifle. The Remington 700  
23 | has a tendency to inadvertently discharge without warning and without depressing the trigger of  
24 | the rifle. Furthermore, the bolt action of the ejection mechanism of the Remington 700 Rifle  
25 | fails, causing the user to innocently believe the rifle is not loaded. Defendant REMINGTON  
26 | knew or should have known of such defects.

1 Each of the above and foregoing acts of negligence was a producing and/or proximate  
2 cause of Plaintiffs' resulting injuries and damages.

3 VI.

4 **STRICT LIABILITY**

5 Upon trial of this case, Plaintiffs would show that the rifle in question was used in a  
6 manner that was or could have easily been anticipated by REMINGTON and serious injuries and  
7 damages resulted. These injuries and damages were caused by a defect or defects in the design,  
8 manufacture, distribution, and/or marketing by REMINGTON. Such defect or defects were  
9 present at the time that Defendant, REMINGTON designed, manufactured, assembled,  
10 fabricated, and/or distributed said product and its component parts.

11 Plaintiffs would further show that the defect or defects present within Remington 700 and  
12 its component parts made them unreasonably dangerous to those persons, such as Plaintiff, and  
13 that such defect or defects were a proximate and/or producing cause of Plaintiffs' injuries and  
14 damages. Defendant REMINGTON is therefore liable to Plaintiffs under the doctrine known  
15 as strict liability or products liability in tort.

16 XVIII.

17 **GROSS NEGLIGENCE**

18 Pleading further, Plaintiff would allege that one or more of the acts or omissions of  
19 Defendant REMINGTON were not only negligent, but grossly negligent as that term is  
20 understood under Nevada law. Furthermore, such gross negligence was a proximate cause of  
21 the incident in question and Plaintiffs' resulting injuries and damages. Accordingly, Plaintiffs  
22 bring this action seeking exemplary damages from the Defendant.

**XIX.**

**DAMAGES**

Upon the trial of this case, the evidence will show that Plaintiffs were caused to sustain injuries and damages as a producing and/or proximate result of the Defendant's negligence. Upon the trial of this case, the damages shown will include:

- 1. The physical pain that Plaintiff has suffered in the past;
- 2. The mental anguish Plaintiff has suffered in the past;
- 3. The amount of reasonable medical expenses necessarily incurred in the treatment of Plaintiff's injuries in the past;
- 4. The lost earnings Plaintiff sustained in the past;
- 5. The damages resulting from physical impairment that Plaintiff has suffered in the past;
- 6. The disfigurement Plaintiff has suffered in the past; and

From the time of the trial of this case, the elements of damages to be separately considered which Plaintiffs will sustain in the future beyond the trial are the following elements that are shown by a preponderance of the evidence at trial:

- 1. Physical pain that Plaintiff will suffer in the future;
- 2. Mental anguish that Plaintiff will suffer in the future;
- 3. The reasonable value of medical expenses that necessarily will be incurred in the future;
- 4. The damages resulting from the physical impairment Plaintiff will continue to suffer in the future;
- 5. The loss or reduction of Plaintiff's earnings and/or earning capacity in the future caused by the injury sustained by the Plaintiff; and
- 6. The disfigurement which Plaintiff will suffer in the future.

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XII.

**JURY DEMAND**

Plaintiffs demand that a jury be empaneled to try the factual issues of this case and have tendered the required jury fee to the court.

XIII.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that the Defendants be cited to appear and answer herein, that upon final trial Plaintiffs have judgment for their damages against the Defendant as follows:

1. For general, special, and punitive damages, including future damages, in excess of \$50,000 for the Breach of Express and Implied Warranties by the Defendant.
2. For general, special, and punitive damages, including future damages, in excess of \$50,000 for the negligence and gross negligence by the Defendant.
3. For general, special, and punitive damages, including future damages, in excess of \$50,000 for strict liability against the Defendant.
4. For costs and attorney's fees; and
5. For such other and further relief as is just and equitable.

DATED: December 30, 1994.

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Respectfully submitted,

**FISHER, GALLAGHER & LEWIS, L.L.P.**

By:  \_\_\_\_\_

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