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5 Of Attorneys for Plaintiffs

6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF OREGON

10 TERI SEE and DARREL SEE, )  
wife and husband, )  
11 )  
Plaintiffs, ) Civil No. 81-886-LE  
12 )  
v. ) PLAINTIFFS' MEMORANDUM  
13 ) REGARDING EVIDENCE ISSUES  
REMINGTON ARMS COMPANY, INC., )  
14 a Delaware corporation, )  
15 Defendant. )

16 FACTS

17 This is a products liability action based upon strict  
18 liability in tort. The main thrust of plaintiffs' claims is that  
19 defendant's product was defective in its design and that this  
20 defect was made all the more hazardous by defendant's failure to  
21 warn.

22 Plaintiffs will offer evidence at trial that Teri See  
23 was seriously injured by a gunshot wound when a third person,  
24 handling a Remington Model 700 rifle, moved the rifle's safety  
25 from the "safe" position to the "fire" position. Through  
26 production of documents, plaintiffs have received documents (Gun

1 Examination Reports) which reflect 49 instances where owners of  
2 substantially similar Remington rifles have complained to  
3 Remington of an identical product defect. Part I of this  
4 memorandum addresses the admissibility of these 49 reports.

5 I. Evidence of other similar incidents is admissible to  
6 prove defect.

7 Reiger v. Toby Enterprises, 45 Or App 679, 609 P2d 402  
8 (1980), was a products liability action wherein the plaintiff  
9 contended defendant's meat slicer was unreasonably dangerous.  
10 Defendant offered evidence of the slicer's prior safe use. The  
11 Oregon Court of Appeals held that proof of the frequency or  
12 infrequency of use of a product with or without mishap is  
13 relevant to proving a defective design. Thus, proof of other  
14 occurrences involving rifles substantially similar to the rifle  
15 involved in this case should be admissible to prove that the  
16 design of the accident rifle is defective and unreasonably  
17 dangerous.

18 In Croft v. Gulf & Western Industries, Inc., 12 Or App  
19 507, 506 P2d 541 (1973), the plaintiff brought an action under  
20 the Oregon Tort Claims Act to recover for personal injuries  
21 received in a motor vehicle collision at an intersection where  
22 the traffic signal malfunctioned, showing green in both  
23 directions. Testimony of a police officer that, on two prior  
24 occasions, he had seen and reported malfunctions of that  
25 particular light was held to be admissible. The prior  
26 malfunctions were not the same as on the date of the accident.

1 On one occasion, the signal was completely out, and on the other  
2 it was locked on green in one direction. The similarity of  
3 conditions which made the testimony admissible was that it was  
4 the same signal and that the malfunctions occurred under similar  
5 wet-weather conditions.

6 The Oregon Court of Appeals is in agreement with a  
7 majority of other jurisdictions in allowing evidence of other  
8 similar incidents to prove defect. Vlahovich v. Betts Machine  
9 Co., 260 NE2d 230 (Ill 1970), was an action against a manu-  
10 facturer by a truck driver seeking recovery for injuries to his  
11 eye which he sustained when a plastic clearance light lens shat-  
12 tered as he was attempting to remove it. The court held,  
13 reversing the trial court, that evidence of other instances of  
14 lens breakages in similar cases was admissible.

15 In Ginnis v. Mapes Hotel Corporation, 470 P2d 135 (Nev  
16 1970), plaintiff brought suit against the defendant hotel after  
17 being caught and injured in an automatic door on defendant's  
18 premises. At trial, plaintiff offered in evidence 19 repair  
19 orders for the automatic doors at the defendant's hotel. The  
20 trial court allowed in evidence only three repair orders relating  
21 to the very door which injured plaintiff. On appeal, the Nevada  
22 Supreme Court held that upon retrial, when the case was tried  
23 under a strict liability theory, the repair orders would be  
24 admissible to prove faulty design. The court went on to state  
25 that whether such repairs were before or after the accident in  
26 question did not affect their admissibility.

1           Rucker v. Norfolk & W. Ry. Co., 396 NE2d 534 (Ill 1979),  
2 was an action for wrongful death and personal injuries based upon  
3 strict liability against the manufacturer and lessor of liquified  
4 gas tank cars. There, the trial court admitted evidence of 42  
5 prior accidents involving punctures of tank cars for the purpose  
6 of showing the danger of the design. Only 26 of the accidents  
7 involved the same situation as was presented in Rucker (puncture  
8 of the tank by a coupler). The Illinois Supreme Court held that  
9 whether the puncture was by coupler or by other means was  
10 irrelevant. If the trial court determined that all 42 accidents  
11 were sufficiently similar and relevant to the issue of whether  
12 the car was dangerous then it need not be shown that the  
13 accidents occurred in an identical manner. Substantial  
14 similarity is all that is required.

15           As pointed out in Ginnis, supra, whether the other  
16 similar incidents occurred before or after the accident in  
17 question does not affect the admissibility of the evidence. See,  
18 e.g., Independent Sch. Dist. No. 181 v. Celotex Corp., 244 NW2d  
19 264 (Minn 1966) and Uitts v. General Motors Corporation, 58 FRD  
20 450 (E D Pa 1972).

21           During the recent pretrial conference in this case, the  
22 Court indicated that Meyer v. G. M. Corp. (unpublished opinion  
23 dated April 16, 1982) was in point. Plaintiffs have reviewed the  
24 cited case and certainly agree that it is supportive of  
25 plaintiffs' position that the evidence of other similar incidents  
26 is admissible to prove defects.

1 Defendant has admitted that the accident rifle and the  
2 rifles described in the 49 gun examination reports were all the  
3 same or substantially similar (see, interrogatory answer Nos. 7,  
4 8, 28, 29, 30, 34 and 35, attached). They all involved Remington  
5 Model 700s manufactured between 1972 and 1982. The trigger  
6 mechanism, bolt and safety mechanism design is the same on all  
7 the rifles. Therefore, evidence of other similar incidents  
8 should be admissible to prove the defective design of the  
9 accident rifle. The next four subsections of this memorandum  
10 address four potential forms that this evidence may take:

11 Depositions.

12 Eleven depositions were taken of individuals identified  
13 through the gun examination reports produced by defendant. Of  
14 these depositions, nine involve substantially identical rifles  
15 and identical functioning of the rifles resulting in the rifle  
16 firing when the safety was moved from the "on safe" position to  
17 the "fire" position while the gun handler was making no contact  
18 with the trigger. The depositions can be summarized as follows:

19 (1) Fred J. Avila - Twice the rifle fired when safety  
20 was pushed from "on safe" position to "fire" position. Nothing  
21 was touching the trigger.

22 (2) Helmut G. Bentlin - Three times the owner pushed  
23 the safety from the "on safe" position to the "fire" position and  
24 the rifle fired despite the fact that nothing was touching the  
25 trigger.

26 (3) Gerald Cunningham - Touched safety and rifle fired.

1 (4) Gabriel A. Hernandez - Moved safety from "safe" to  
2 "fire" and gun discharged. Happened on three occasions.

3 (5) James Heulster - On three occasions, rifle fired  
4 when safe released despite no touching of the trigger.

5 (6) Sidney V. Jackson - Fired when safe released--three  
6 times.

7 (7) Ronald Klosowski - Fired when safe released.

8 (8) James Sanders - Fired when safe released--six or  
9 seven times.

10 (9) Tony Varnum - Fired when safe released.

11

12 Plaintiffs seek to read the above referenced depositions  
13 at the time of trial. For that purpose, the corresponding gun  
14 examination reports (Trial Exhibits 7, 8, 13, 19, 22, 24, 39, 41  
15 and 42) would establish that the deponents' rifles were, in fact,  
16 substantially similar to the accident rifle and for giving  
17 context to their deposition testimony.

18 In summary, plaintiffs should be entitled to read the  
19 above referenced depositions to prove, under Reiger v. Toby,  
20 supra, that the accident rifle was defective in its design.

21 Gun Examination Reports.

22 Plaintiffs are entitled to put into evidence the gun  
23 examination reports referenced above and all gun examination  
24 reports which contain admissions by Remington that there is a  
25 problem with the design of this rifle. This latter group  
26 includes:

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- 1           (1) Exhibit 3: "Malfunction appears to have been ✓  
2 caused by excessive oil in trigger mechanism."  
3           (2) Exhibit 6: "Excessive molybdate in action."  
4           (3) Exhibit 8: "Fails trick test."  
5           (4) Exhibit 11: "Malfunction possibly caused by  
6 gummed-up fire control."  
7           (5) Exhibit 12: "Apparent cause of malfunction due to  
8 gummed-up fire control."  
9           (6) Exhibit 13: "Sear-safety cam sticks in downward  
10 position because of accumulation of dirt and oil."  
11           (7) Exhibit 14: Could not duplicate complaint but  
12 replaced fire control without charge.  
13           (8) Exhibit 16: "Excessive oil and fire control could  
14 cause impaired mechanism function."  
15           (9) Exhibit 29: "The malfunction appears to have been  
16 caused by excessive oil in trigger mechanism."  
17           (10) Exhibit 39: Gun replaced at no charge.

18  
19           Exhibit 1 (Gun Examination Report 599) should be  
20 admitted into evidence for illustrative purposes because it was  
21 used, without objection, during Marshall Hardy's deposition  
22 (which will be read at trial) to explain the function of the gun  
23 examination reports.

24           Finally, plaintiffs should be permitted to put into  
25 evidence all gun examination reports where the customer complaint  
26 is that the rifle fires when the safe was released and

1 Remington's examination indicated that it could not duplicate the  
2 incident. These gun examination reports should come in because,  
3 as demonstrated by a comparison of the above referenced deposi-  
4 tions with their corresponding gun examination reports, Remington  
5 frequently cannot duplicate legitimate customer complaints. The  
6 fact finder should be entitled to consider these claims along  
7 with the others, in determining if the rifle is defective in  
8 design such that it intermittently will fire when the safety is  
9 released. This evidence is admissible under FRCP 803(24). The  
10 "circumstantial guarantees of trustworthiness" required by the  
11 rule are provided by the fact that there are numerous other  
12 similar complaints and by the fact that gun owners would not  
13 intentionally make unfounded claims as to the condition of their  
14 rifles, especially where no personal injury nor substantial  
15 property damage is involved.

16 Correspondence.

17 Several of Remington's written responses to complaining  
18 customers contain admissions which should be admissible under  
19 FREV 801(d)(2). These admissions are generally found in cor-  
20 respondence attached to particular gun examination reports  
21 produced by the defendant. The gun examination reports in  
22 question should be admitted with the correspondence containing  
23 admissions if, for no other reason, to put into context each such  
24 admissions.

25 The admissions referred to are as follows:

26 (1) Exhibit 14: "Main fault--bad fire control."

1 (2) Exhibit 15: "Main fault--fails trick test."

2 (3) Exhibit 19: Replaced trigger assembly at no  
3 charge. Defendant suggests that the malfunction was caused by a  
4 finger on the trigger. The jury should be entitled to balance  
5 this contention versus the deposition of the gun owner (Sanders).

6 (4) Exhibit 21: "Sear-safety cam stuck in downward  
7 position because of accumulation of dirt and oil."

8 (5) Exhibit 22: Rust, dampners, condensation could  
9 cause accidental firing.

10 (6) Exhibit 25: Defendant could not duplicate customer  
11 complaint but stated, "It was discovered . . . that the trigger  
12 assembly contained an excessive amount of heavy oil. It is  
13 possible that an accumulation of this nature, coupled with cold  
14 temperatures could, possibly, cause the trigger mechanism to hang  
15 up and result in an accidental discharge when the safety is  
16 released."

17 (7) Exhibit 26: "We can only assume that the oil  
18 accumulation, under certain circumstances, caused the internal  
19 parts to hang-up and caused the accidental discharge."

20 (8) Exhibit 29: ". . . the trigger assembly contained  
21 an excessive amount of heavy oil. It is possible that the oil  
22 accumulation, coupled with the cold temperature did, in fact,  
23 cause the trigger mechanism to hang up, resulting in the  
24 accidental discharge when the safety was released."

25 \* \* \*

26 \* \* \*

1           II. Defendant should not be permitted to impeach Mr.  
2 Boudreau by proof of conviction for larceny.

3           FREV 609(a)(2) limits impeachment to crimes involving  
4 dishonesty or false statements. Certainly, larceny does not  
5 involve a false statement. Defendant will argue that larceny  
6 involves dishonesty and, at first blush, that argument has a  
7 measure of logical, moral appeal. Under that logic, however,  
8 impeachment could be by any criminal conviction because it could  
9 always be argued that commission of any crime involves  
10 dishonesty. A review of the legislative history of the rule (set  
11 forth in the Federal Rules of Evidence) makes clear that such a  
12 broad interpretation was not intended. It is clear from the  
13 legislative history that the phrase "dishonesty or false state-  
14 ment" was intended to mean crimes such as perjury or subornation  
15 of perjury, false statement, criminal fraud, embezzlement or  
16 false pretense, or any other offense in the nature of crimen  
17 falsi, the commission of which involves some element of deceit,  
18 untruthfulness or falsification bearing on the witness's  
19 propensity to testify truthfully.

20           Clearly, larceny does not fall within the ambit of the  
21 rule. Defendant should not be entitled to impeach by use of the  
22 above referenced conviction.

23  
24           III. Post-accident design change.

25           Plaintiffs are entitled to offer evidence of defendant's  
26 post-accident design change to prove the defective, unreasonably

1 dangerous condition of the rifle on the day of the accident.

2 Van Gordon v. PGE Co., 59 Or App 740, \_\_\_\_ P2d \_\_\_\_  
3 (1982), makes clear that the issue is an open question in strict  
4 liability cases in this state. If this issue were before the  
5 Oregon Supreme Court, that court would adopt the rule urged by  
6 plaintiffs and first recognized in Ault v. International  
7 Harvest Co., 117 Cal Rptr 812, 528 P2d 1148 (1975).

8 That rule, succinctly stated, is that a plaintiff is  
9 entitled to present evidence of the defendant's post-accident  
10 design change as substantive evidence of the defectiveness of the  
11 product. The evidence in this case will support such a proposi-  
12 tion. Defendant's 1982 design change, if in effect in 1976,  
13 would have prevented this accident.

14 Defendant may contend that FREV 407 bars evidence of  
15 post-accident design changes. However, as is clear from a  
16 careful reading of that rule, it excludes evidence of subsequent  
17 remedial measures only if offered to prove negligence or other  
18 culpable conduct. Plaintiffs' claim is based upon strict  
19 liability in tort. It is not necessary to prove defendant's  
20 negligence or other fault.

21 This Court should follow Ault, supra, and allow plain-  
22 tiffs to prove the defendant's post-accident design change.

23 Respectfully submitted,  
24 BODYFELT, MOUNT, STROUP  
& CHAMBERLAIN  
25 /s/ PETER R. CHAMBERLAIN  
26 By \_\_\_\_\_  
Peter R. Chamberlain, Of  
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Pitf's EXHIBIT 89  
CASE *See v. Remington*  
DATE RFR  
CLERK

8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE DISTRICT OF OREGON

10 TERI SEE and DARREL SEE, )  
wife and husband, )  
11 )  
Plaintiffs, ) No. 81-886  
12 )  
vs. )  
13 ) DEFENDANT'S  
REMINGTON ARMS COMPANY, INC., ) ANSWERS TO INTERROGATORIES  
14 a Delaware corporation, ) (FIRST AND SECOND SETS)  
15 )  
Defendants. )

16 In response to Plaintiff's Interrogatories to Defendant,  
17 Defendant Remington Arms Company, Inc. offers the following:

18 INTERROGATORY #1: State in detail how, if at all, the trigger  
19 mechanism of this rifle differs from the trigger mechanism of the  
20 Remington 600 rifle as it existed before being recalled.

21 ANSWER: See attached.

22 INTERROGATORY #2: State in detail how the safety mechanism of this  
23 rifle differs from the safety mechanism of the Remington 600 rifle  
24 as it existed before being recalled.

25 ANSWER: Functionally the same, but the shape is different.

26 INTERROGATORY #3: Identify what rifle models defendant has

1 manufactured in the last eight years which could be unloaded  
2 (including removal of a live shell from the chamber)  
3 without disengaging the weapon's safety.

4 ANSWER: M/788 and M/700.

5 INTERROGATORY #4: Identify what rifle models defendant  
6 has manufactured in the last eight years which could not be  
7 unloaded (including removal of a live shell from the chamber)  
8 without disengaging the weapon's safety.

9 ANSWER: M/788, M/700 and M/600.

10 INTERROGATORY #5: Identify all experts you intend to call  
11 as witnesses in the trial of this matter and state the substance  
12 of their testimony.

13 ANSWER: Unknown.

14 INTERROGATORY #6: If plaintiff's request for admission #3 is  
15 denied, state the number of occasions on which it has been reported  
16 to you that a Remington Model 700 rifle fired when the safety  
17 was released.

18 ANSWER: Request for Admission #3 admitted.

19 INTERROGATORY #7: Are the Remington Model 700 rifles inspected  
20 by you (and mentioned in the 49 gun examination reports  
21 produced by you) the same or similar to the gun involved in this case?

22 ANSWER: Yes.

23 INTERROGATORY #8: If the answer to Interrogatory No. 7 is other  
24 than an unqualified "yes," state the ways in which this rifle  
25 is different from each of those rifles.

26 ANSWER: Not applicable.

1 INTERROGATORY #9: State, with as much accuracy as possible,  
2 the date (or year, if date cannot be determined) of manufacture  
3 of each of the rifles examined in the 49 gun examination reports  
4 produced by you.

5 ANSWER:

|    |       |       |       |       |
|----|-------|-------|-------|-------|
| 6  | 3/77  | 10/68 | 7/66  | 7/76  |
| 7  | 2/72  | 5/74  | 1/72  | 6/79  |
|    | 9/76  | 9/78  | 2/79  | 10/72 |
| 8  | 5/76  | 7/76  | 7/77  | 6/77  |
|    | 2/77  | 9/71  | 7/68  | 2/72  |
| 9  | 7/77  | 1/80  | 11/76 | 10/80 |
|    | 12/77 | 6/80  | 11/74 | 7/74  |
| 10 | 5/76  | 4/81  | 7/78  | 8/76  |
|    | 6/76  | 2/71  | 10/69 | 3/75  |
| 11 | 4/73  | 8/77  | 10/79 | 8/70  |
|    | 3/79  | 7/79  | 12/74 | 12/70 |
| 12 | 7/77  | 8/75  | 11/80 | 8/73  |

13 INTERROGATORY #10: State, with as much accuracy as possible, the  
14 date (or year, if date cannot be determined) of manufacture of this  
15 rifle.

16 ANSWER: December, 1976.

17 INTERROGATORY #11: If plaintiffs' request for admission No. 5  
18 is denied, state, with particularity, in what respects you contend  
19 the rifle did not meet your manufacturing, design and/or performance  
20 specifications on the date of your examination.

21 ANSWER: As far as we could see without running tests, the gun  
22 met all design and performance specifications.

23 INTERROGATORY #12: If plaintiffs' request for admission No. 6  
24 is denied, state, with particularity, in what respects you contend  
25 the rifle was in a different condition than it was when it left  
26 your hands.

Page 3 - ANSWERS TO INTERROGATORIES

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1 ANSWER: Dirty and not well kept.

2 INTERROGATORY #13: If plaintiff's request for admission No. 7  
3 is denied, state, with particularity, in what respects you contend  
4 that it was not reasonably foreseeable.

5 ANSWER: We would expect owners of such rifles to take reasonable  
6 care of the physical and mechanical portions of these rifle.

7 INTERROGATORY #14: What do you contend caused this rifle to  
8 fire at the time of, and on the date of, Mrs. See's injury?

9 ANSWER: The trigger was pulled.

10 INTERROGATORY #15: State whether or not it is true that the side  
11 portion of the trigger mechanism on this rifle (and other Remington  
12 700 rifles) is open such that dirt, debris and other foreign  
13 material could enter the trigger mechanism.

14 ANSWER: Yes, however, we are not certain as to how much dirt,  
15 debris or foreign material could enter the trigger mechanism --  
16 it would depend on the care of the rifle.

17 INTERROGATORY #16: If the answer to Interrogatory No. 15 is "yes,"  
18 or is qualified in any way, explain why the trigger mechanism is  
19 designed in that manner and state whether or not it could have been  
20 designed in such a manner that such contamination could be reduced  
21 or eliminated.

22 ANSWER: To examine the sear -- trigger engagement. The mechanism is  
23 designed for movement and could be redesigned in several ways, all  
24 of which are unknown at this time.

25 INTERROGATORY #17: On the date of manufacture of this rifle,  
26 how many reports had defendant received of other Remington 700 rifles

1 discharging when the safety was disengaged?

2 ANSWER: Unknown. Records that far back are no longer available  
3 due to compliance with company record retention schedules.

4 INTERROGATORY #18: Since the date of manufacture of this rifle, has  
5 the defendant changed the design of the trigger mechanism or the  
6 safety mechanism (or both) in any way on its Remington Model 700  
7 rifle? If so, state with particularity what changes have been made  
8 and the reason or reasons for each such change.

9 ANSWER: Yes. Bolt lock feature has been removed. Marketing  
10 Department determined that bolt lock was no longer a feature that  
11 many consumers desired.

12 (Interrogatories No. 19, 20 and 21 deleted)

13 INTERROGATORY #22: Is it true that you changed the design of  
14 your Remington Model 788 from a safety which had to be disengaged  
15 to unload the gun to a safety which did not have to be disengaged  
16 to unload the gun?

17 ANSWER: No. (Changed bolt lock). We removed the bolt lock and  
18 one of the consequences is that you can raise the bolt without  
19 moving the safety.

20 INTERROGATORY #23: If the answer to Interrogatory No. 22 is "yes,"  
21 state your reasons for making such a change.

22 ANSWER: Consumer desire for a bolt lock has been questioned. The  
23 bolt lock was removed in 1974 on one bolt action model (Model 788)  
24 to test consumer impact.

25 INTERROGATORY #24: If the answer to Interrogatory No. 22 is "no,"  
26 state whether or not you ever made such a change

1 on any rifle which you manufacture, identify that rifle, and  
2 state the date such change was made.

3 ANSWER: M/788, M/700.

4 In answer to Plaintiffs' Second Set of Interrogatories  
5 to Defendant, Defendant Remington Arms offers the following:

6 INTERROGATORY #25: List all parts in the bolt and firing mechanism  
7 for the Model 700 that are or were interchangeable with the parts  
8 in the bolt and firing mechanism for the Model 600.

9 ANSWER: See attached drawings.

10 INTERROGATORY #26: List all parts in the safety mechanism on the  
11 Model 700 which are or were interchangeable with the parts in  
12 the safety mechanism on the Model 600.

13 ANSWER: See answer to #25 above.

14 INTERROGATORY #27: List all types of Model 700's defendant  
15 manufactured during the time period from 1976 through 1981 (such  
16 as ADL, BDL or VAR).

17 ANSWER: ADL, BDL, VAR, CLASSIC, C Grade, D Grade and F Grade.

18 INTERROGATORY #28: For each of the Model 700 types listed in  
19 the response to Interrogatory No. 27 state, with particularity,  
20 in what way the particular model type varied from the other model  
21 types.

22 ANSWER: The bolt and firing mechanisms and safety mechanisms are  
23 the same.

24 INTERROGATORY #29: For each of the Model 700 types listed in the  
25 response to Interrogatory No. 27 state whether or not there were  
26 any differences whatsoever in the trigger mechanism between each

1 such model type identified.

2 ANSWER: No difference.

3 INTERROGATORY #30: For each of the Model 700 types listed in the  
4 response to Interrogatory No. 27 state whether or not there were  
5 any differences whatsoever in the safety mechanism between each  
6 such model type identified.

7 ANSWER: No difference.

8 INTERROGATORY #31: Describe each of the trigger mechanism differences  
9 referenced in your response to Interrogatory No. 29 describing,  
10 with particularity, each such difference.

11 ANSWER: Not applicable.

12 INTERROGATORY #32: Describe each of the safety mechanism differences  
13 referenced in your response to Interrogatory No. 30 describing  
14 with particularity, each such difference.

15 ANSWER: Not applicable.

16 INTERROGATORY #33. State whether the drawings of the Model 600  
17 previously provided by defendant to plaintiffs depict the Model 600  
18 design as it existed before, or after, its major recall.

19 ANSWER: Before its major recall.

20 INTERROGATORY #34: For each of the 49 Gun Examination Reports  
21 previously produced by defendant, indicate which reports relate  
22 to rifles that are substantially the same in design and manufacture  
23 as this rifle.

24 ANSWER: All 49 are the same design and manufacture.

25 INTERROGATORY #<sup>35</sup>34: For each of the 49 Gun Examination Reports  
26 previously reported by defendant which relate to rifles which are

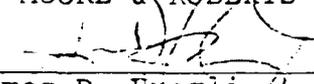
1 not substantially the same as this rifle, indicate with  
2 particularity, how each such rifle differed from this rifle.

3 ANSWER: Not applicable.

4 INTERROGATORY #36: Based upon your examination of this rifle,  
5 indicate what the date of manufacture of this rifle is, with  
6 as much specificity as possible.

7 ANSWER: Previously answered. 12/76.

8 SCHWABE, WILLIAMSON, WYATT,  
9 MOORE & ROBERTS

10 By:   
11 James D. Huegli  
12 Attorneys for Defendant  
13  
14  
15  
16  
17  
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19  
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21  
22  
23  
24  
25  
26

CERTIFICATE — TRUE COPY

I hereby certify that the foregoing copy of plaintiffs' memorandum

is a complete and exact copy of the original.  
Dated February 15, 1983

Attorney(s) for Plaintiffs

ACCEPTANCE OF SERVICE

Due service of the within is hereby accepted on 1983, by receiving a true copy thereof.

Attorney(s) for

CERTIFICATES OF SERVICE

Personal

I certify that on 1983, I served the within attorney of record for by personally handing to said attorney a true copy thereof.

Attorney(s) for

At Office

I certify that on 1983, I served the within attorney of record for by leaving a true copy thereof at said attorney's office with his/her clerk therein, or with a person apparently in charge thereof, at Oregon.

Attorney(s) for

Mailing

I hereby certify that I served the foregoing plaintiffs' memorandum on James D. Huegli, defendant, on February 15, 1983, by hand delivery by mailing to said attorney(s) a true copy thereof, certified by me as such, contained in a sealed envelope, with postage paid, addressed to said attorney(s) at said attorney(s) last known address, to-wit: 1200 Standard Plaza, Portland, OR 97204.

and deposited in the post office at Portland, Oregon, on said day.

Dated February 15, 1983.

/s/ Peter R. Chamberlain  
Attorney(s) for Plaintiffs

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