



JOHN LINDE, having been duly sworn by a Notary Public in the State of New York, testified under his oath as follows:

BY MR. CHAMBERLAIN:

Q Mr. Linde, we have been introduced. My name is Peter Chamberlain. I represent Mr. and Mrs. See in a lawsuit that they have brought against Remington Arms Company, which is pending in Federal Court in Oregon.

Have you had it explained to you what a deposition is and what we are doing today?

A Yes, I have.

Q This is our chance to ask you some questions under oath about the Remington Model 700 and the facts we think are relevant to our lawsuit. Okay? Do you understand that?

A Yes, I do.

Q It is also important that you answer my questions out loud; that you use yases and noes when appropriate, rather than uh-huhs and huh-uhs, because the court reporter has a hard time getting those down. It is also important that you let me finish my question before you try to answer, because she can't get us both down when

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we are both talking at once. Secondly, it is very important from my standpoint and I think from your company's standpoint that you understand my question before you attempt to answer. If you hear my question and don't understand it or need a clarification, feel free to stop me and I will explain what I mean. You know a lot more about the Model 700 than I know. Some of my questions will seem inane, and they probably are, but that is I don't know as much about it as you do.

Okay?

A Sure.

Q If you want to stop and take a break and talk to your lawyers outside the room, you are entitled to do that as well.

A Okay.

Q What is your educational background?

A I have a mechanical engineer's degree from the University of Wyoming.

Q What year did you graduate?

A 1965.

Q Do you have any postgraduate education?

A Yes. I have taken courses at Utica College,

Mohawk Valley Community College and Syracuse University, which is a division -- well, actually, I took the courses through Utica College.

Q What courses were you taking at those three schools?

A Business, law, finance.

Q Anything else?

A Well, I was just working on an M.B.A.

Q Are you still working on it?

A No, I am not.

Q Did you get it?

A No, I never did.

Q So you abandoned that approach?

A Yes, I did.

Q What is your age?

A Thirty-nine.

Q What did you do between college and going to work for Remington?

A I didn't do anything. I went to work for Remington out of college.

Q In '65?

A 1965.

Q What was your age when you graduated from college? I am a little slow on my math here.

A Twenty-two.

Q Okay. And now, trace for me, if you will, your employment with Remington, what you have done, what titles you have held and what the jobs involved.

A I started in the research department as, it would probably be, an engineering assistant. I worked up through the various levels to design engineer, research engineer, research supervisor and research manager.

Q Is that your present position?

A No. I am the superintendent of Product Engineering and Control.

Q In these various levels that you have gone through in the research and development department, do you concentrate on one particular product or one particular function in the design process, or do you work the spectrum?

A No. Normally, you have some area of specialization.

Q What has been your area of specialization?

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A I concentrated primarily on the Model 3200.

Q Is that a shotgun?

A Yes.

Q What person or persons in your department had as their area of specialization the Model 700?

A Well, I did at one time.

Q From what period?

A It would be from 1974, '75, that time frame, to 1978.

Q And then you shifted to the Model 3200?

A No. I had the 3200 before that. And I also had the 3200 at that time.

Q So you had two specialties?

A No. When you are in Research, it depends on what phase of development you are in. That determines the amount of activity.

Q On a particular model?

A Yes.

Q Tell me briefly what you did during '75 to '78 in relation to the Model 700?

A I worked on the design changes and design improvements and product improvements and caliber additions

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and model additions in that model.

Q What design changes do you recall having been made during that period?

A Well, there were numerous design changes. Design changes can cover everything from the butt plate screw to the front side.

Q Are you aware of any design changes or product improvements made during the time you were working on the 700 that involved the fire control?

A Yes.

Q Okay. What do you recall, what changes?

A We made some changes to the trigger to eliminate a burring that we were getting from our powder metal to reduce the repair operations. We made some changes to the sear assembly or the sear safety cam, we call it. We added nodes. We clarified the drawings. We made changes to the trigger connector, clarifying what we required there. We did a lot, at that time, of clarification and just cleaning up things on those parts in connection with some work we were doing on the Model 600's trigger assembly.

Q Arising out of the Coats versus Remington Case?

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A No. It had nothing to do with the Coats Case.

Q In the hierarchy of your department, who initiates or how does a design change or product improvement become initiated?

A You mean when I was in Research?

Q Right. I am talking still about '74 to '78, that time period.

A Oh, okay. The design change request could be initiated by an engineer in Research. It could be requested by an engineer in Process Engineering, which could come from somebody in Production, but it would go through Process Engineering to Research. It could be initiated by Marketing, which would go through Research and result in changes to the design.

Q A design change request, then, is somebody with enough expertise and/or clout to push a suggested change up the ladder and see if it gets approval?

A Not necessarily, no.

Q Could it come from a production worker?

A It could be initiated by a production worker, but he would not write a request. He would initiate it by going to his foreman. The foreman could go to the

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area engineer and request it. The area engineer could request Research to look at it.

Q And it goes through that process until somebody approves or rejects it?

A Yes, until it is brought to light. When you request something, that doesn't mean you are going to make a change. That means you have a request.

Q Okay. Who ultimately decides on whether or not that change will be made?

A Well, it depends upon the nature of the change.

Q Okay. Let's talk about a change on the safety. In particular I want to talk about the change that was made on the Model 700's safety in 1981 or 1982, where they eliminated the bolt lock feature. Are you familiar with that change?

A Yes, I am.

Q Okay. I will hand you Exhibit 18. Maybe that will help you.

A Okay. What is your question about this exhibit?

Q Who would have ultimate approval authority over that kind of change?

A Well, it is right here. It is approved by the

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supervisor of Design, and it is approved by the manager of the research department.

Q Who was the supervisor of Design then?

A It was John Brooks.

Q Who is manager of Research?

A Clark Workman.

Q Are you familiar with the reason for this particular change, the reason it was implemented?

A Yes.

Q What is the reason?

A To eliminate having to put the safety in the off position to open the bolt.

Q Do you know why that was felt to be desirable by Remington?

A I believe it came out of some marketing studies that the marketing department ran.

Q Where do you have that information from?

A From what I heard.

Q Who did you hear it from?

A Well, I heard it from Paul Holmberg.

Q Have you ever heard it said that the reason for that change was so that you could unload the rifle

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without putting the safety in the fire position?

A No. But you could do that.

Q Once that change was made you could do that, right?

A Yes.

Q Before that change was made, you could not do that?

A That is right.

Q Are you familiar with a committee known as the Product Safety Subcommittee?

A Yes.

Q What is it a subcommittee of?

A I would imagine it would be a subcommittee of the Operations Committee.

Q Do you know who is presently on the Product Safety Subcommittee?

A No, I don't know. I couldn't list all of the names for sure.

Q Can you list some of them?

A I could tell you who I think are on it, but I can't tell you who is actually on it, because I don't know.

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Q Who do you think is on it?

A Well, I would think Robert Felitz.

Q Who?

A Robert Felitz. Don't ask me how to spell it.

I don't know.

MR. RUEGLI: Is that Felix, like the cat?

THE WITNESS: Yes.

MR. SPERLING: I will tell you how to spell it. It is F-i-e-l-i-t-z.

THE WITNESS: E. Hoxton, Jr. may be on it, H-o-x-t-o-n.

BY MR. CHAMBERLAIN:

Q Who else?

A I really don't know who else is on it. I would imagine there is a marketing representative, but I don't know who from Marketing.

Q Is it a committee whose membership changes over time?

A Yes.

Q Do you know who would have been on it in the period that you were working on the 700, from '74 to '78, that time frame?

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A No. I don't know who the actual members are. I can take a stab, but I don't know.

Q Do you know if they keep minutes of their meetings?

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

Q Do you know if that committee ever passed on the safety of the -- Strike that. That is a bad question. Let me start over.

I have some documents provided to me by your employer which relate to the recall of the Model 600.

A Okay.

Q One of these documents is a letter from Mr. Sperling here to somebody in the finance department at DuPont. It's a letter about the Coats versus Remington Case. In that letter, he reports that Remington received a nonpersonal injury complaint on the Model 600; that the rifle fired when the safety was pushed to the fire position. He states that an audit of 600's throughout the country was done, and it was determined that a significant percentage of those guns could be placed in the trick condition. He states that after the completion of the audit and after evaluating

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the results, the Product Safety Subcommittee concluded that the situation did not present a safety problem.

My question is, you know, number one, there have been a number of consumer customer complaints about the Model 700 discharging when the safety is moved from the safe to the fire position. Are you aware of that?

A I know that there have been some.

Q My question is, do you know if the Product Safety Subcommittee performed a similar audit evaluation and came to a similar conclusion regarding the 700?

A I wouldn't think they would have, but I don't know that.

Q You say you think they would have?

A I would not think they would have.

Q Why not?

A Because I don't see where that is a problem.

Q Do you know either from something you have heard or read or from your own engineering knowledge why the Model 700 was originally designed such that you could not open the bolt when the safety was in the on safe position?

A Why?

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Q Yes.

A This is my opinion.

Q Okay.

A The 700 follows the convention that has been set for sixty years for bolt action rifles.

Q Which is?

A Which is, you have two problems on a bolt action. You have the problem of the gun not being able to fire if the bolt is ajar; that is, if the bolt is not securely locked, you can have a condition where the gun is inactive. So the 700 is strictly following the convention that has been laid down by the many previous models.

Q So it is a design they have been using for year after year?

A Not the exact design but the same principle.

Q It is also true, though, isn't it, that any number of rifles have been on the market for years and years, bolt action rifles, which could be unloaded with the safety in the on safe position?

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

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BY MR. CHAMBERLAIN:

Q Is that true or not?

MR. HUEGLI: Same objection.

BY MR. CHAMBERLAIN:

Q You have to understand that he is just doing that for the record.

MR. HUEGLI: Go ahead and answer.

THE WITNESS: There are rifles you can unload with the safety in the on safe position.

BY MR. CHAMBERLAIN:

Q There have been for this entire century, have there not?

A Yes.

Q Give me some examples of rifles that are designed that way that you are aware of.

A Well, there is the 98 Mauser.

Q M-a-u-s-e-r?

A Yes. And there is the Winchester Model 70. Of course, that hasn't been around that long.

Q Are there any others you can think of?

A There are others, but I think that is adequate.

Q Which others can you think of? I would like

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as complete a list as you can give me.

A Well, there is a number of 22's, both Remington and Winchester, that you can unload with the safety on.

Q There is a Remington 22 bolt action?

A Yes.

Q What is its model name?

A Well, the one we are making right now is the 580 series, which would be the 581 and the 582. You can unload the Model 725 with the safety in the on safe position.

Q That is no longer being manufactured?

A That is right. You can unload the Remington Model 788 with the safety in the on safe position.

Q You can do that because several years ago, they made a change in the Model 788 very similar to the recent change they have made in the Model 700?

A That is right.

Q Do you know the reason they made the change on the 788?

A Not exactly. I know -- I don't know the whole thing, but I know part of it.

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Q What part do you know?

A Well, I know that the change in the 788 was made at the time that we were -- let me think. At the time we made the change, we changed -- we actually changed the function of the trigger assembly. I believe that previous to that that the gun had what we called a blocked trigger safety. We changed from that to a blocked sear. But I am not sure of that.

Q Another bolt action rifle that can be unloaded with the safety in the on safe position is the Springfield-03, isn't it?

A That is right.

Q How long has that been around?

A Well, the original model was 1903, as the name implies. I think production started in 1906.

Q And there is an English rifle called the Lee-Enfield?

A I am not sure.

Q What about the Italian rifle, the Carcano?

A That is the Mauser.

Q That is a copy of the Mauser by the Italians?

A Yes.

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Q Same idea, though?

A They are very similar.

Q You can unload it with the safety on?

A It is a three-position safety. There is a position where it blocks the bolt, and then there is a position that blocks the sight, where you can unload the bolt. The third position is a position where the gun will fire.

Q So you can have a locked bolt. Is that when the gun cannot be unloaded and cannot be fired?

A Right.

Q Number two is unlock the bolt, but still the gun will not fire?

A Right.

Q But you can unload it in that position, right?

A Yes, you can.

Q And position three would be that you could fire the gun. Would the bolt be locked in position three or not?

A No.

Q Do you know when the Model 700 with the most recent change to the bolt lock actually went into

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production and began getting out to the public?

A I think it was in February.

Q Of this year?

A Yes.

Q Since that date, are you aware of any complaints from users that the rifle discharged when the safety was flipped from the safe to the fire position?

A No, I am not.

Q Are you on the Return Gun Committee?

A No, I am not.

Q Are you in a position in your employment with Remington such that if a Model 700 that had undergone that change was returned with an F.S.R. complaint that you would know about it?

A I would sure think I would.

Q F.S.R., you know what that is, don't you?

A Maybe you ought to tell me what it is.

Q Do you have an understanding of what F.S.R. is?

A Tell me what you think it is.

Q Do you have an understanding of what you think it is? Listen, I am asking you questions with respect to Remington. I am the one asking the questions. You

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are the one answering them.

MR. HUEGLI: Peter, slow down.

Do you understand what Peter means by P.S.R., or do you have your own understanding?

THE WITNESS: I think I do. But when it comes to gun terminology, it can be confusing. And when you give three initials, what does that mean? It could be a lot of different things.

BY MR. CHAMBERLAIN:

Q Well, tell me what your understanding of that is.

A It is an abbreviation for fire safe release.

Q Is it a description of the gun when the safety is flipped from the safe position to the fire position, that the gun will discharge? Is that right?

A Yes.

Q Is that common to the gun industry?

A I don't understand.

Q Is it just within Remington?

A I don't know what they would use at the Winchester plant.

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Q As part of your job in -- what did you call it here? Here it is, product development, design changes and product improvements. In that process, is there a testing that goes on of prototype changes, say?

A Yes, there is.

Q Is that done within your department?

A It is done within the research department.

Q Was that true between 1974 and 1978?

A Yes, it was.

Q And it has been true from '78 to the present?

A Yes, it is.

Q Are you aware of what product testing was done on the Model 700 when they made the recent change to the bolt lock?

A No. I didn't get a copy or hear anything about it. I know that it was tested, though.

Q When this product testing is done, do they record the tests on some written form?

A It depends upon the test.

Q Okay. Do you know which ones they record and which ones they do not?

A Well, normally, it depends upon the complexity

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of the test.

Q Okay. Give me an idea of what type of test would be complex enough that they would be recorded.

A Okay. If you are introducing a new model, then, on that, you also have a test report. If you are doing accuracy or like dry cycle work, or something like that, normally, you wouldn't have a test.

Q Okay. Are you aware of any tests that have been done on the Model 700 where the people doing the tests are trying to determine whether or not the rifle will fail the trick test in various conditions?

A Yes. I know there has been some work done on that.

Q In your department?

A We check -- in the department I am responsible for, yes, we check the 700 for the trick condition.

Q Are you talking about new rifles that come off the line?

A That is right.

Q How about used rifles that come in with a product complaint?

A They are checked in Customer Repair before

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they go out.

Q Before they are returned to the customer?

A Yes.

Q Okay. My question is -- I don't want to talk about used guns coming back, and I don't want to talk about new guns that are on their way out. What I want to know is, are you aware of any time that Remington sat down with, say, a batch of Remington 700's, be they used or new, and conducted a test or a study with a batch of rifles to see if they could get them to fail the trick test? For instance, let's take so many rifles and use them as a control group, do nothing to them. Let's take so many and put them at zero degrees Fahrenheit. Let's take so many and gun up the trigger mechanism with molycoat. Let's take so many and file the corner of the trigger connector and see if that has an affect on it. Are you aware of any kind of testing like that?

A No. I am not aware of a formalized test.

Q I am not either. I just wondered if there was any.

A I don't know.

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Q If those kinds of test had been conducted in Research and Development in the last five, six years, would you in your position know about them?

A Not necessarily.

Q Okay. You might, but you might not?

A That is right.

Q What records do you have that you prepared at your attorney's request that inventory or list or indicate what kinds of tests were done on the Model 700 rifle?

A I haven't prepared anything for this.

MR. HUEGLI: Let me go off the record for a moment.

(A discussion was held off the record.)

THE WITNESS: Okay. Tell me, in relation to what?

MR. HUEGLI: We are trying to find out what tests your department or you performed or that you are aware of that were performed on the Model 700's fire control.

You are not really concerned about the barrel or the stock involved in this, right?

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MR. CHAMBERLAIN: Right.

MR. HUEGLI: On the 700's fire control when it was either designed or redesigned, such as it was for this new production change, to see if the trigger and fire control worked okay.

THE WITNESS: Okay. Yes. We did a number of tests. I can't remember, you know, all of them, but I do know we did some tests on a number of those changes that you have on those D.C.R.'s to make sure everything was functioning properly. One I remember was where we tested the safety lever in a dry cycle mode to see if there would be any wear after sustained usage. One I remember we did I think we tied these tests together where we dry cycled a large number of rounds to see if there was any wear on the sear safety cam. We did a number of tests to see if there was a change in the trigger pull over extended dry cycles. And there could be more. I don't remember. When you usually work along, you

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test various things.

BY MR. CHAMBERLAIN:

Q Are these the kinds of tests that would be recorded?

A Yes and no. Some of them are and some of them aren't.

Q What is your policy in your department for document retention? How long would test results that are recorded be kept?

A I don't know that. We have a schedule that we follow for our document retention. I would have to go get the thing and see how long we keep the various reports for.

Q So it is likely in Research and Development that there are some test results relating to some of your tests on the Model 700's fire control?

A There sure could be, yes.

Q Do you perform any tests on the Model 700's fire control or have you ever, by the introduction of foreign material into the fire control, to see if you could try to induce a malfunction?

A I believe it has been done. I personally don't

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remember doing that.

Q Do you have any idea how recently it has been done?

A No, I don't.

Q Do you perform any tests or are you aware of any tests on the 700's fire control where the function of the safety is or the function of the fire control is tested at low temperatures?

A I am sure it has been done, yes. It would be one of the tests that would be done.

Q How about testing the function of the fire control when, say, water condensation has been introduced in the fire control?

A I am sure that has been done, too.

Q Do any other fire control tests come to mind that you either know have been done or you are sure have been done?

A No. I can't think of any.

Q Okay. Are you familiar enough with the document storage or record keeping in your department that you, given sufficient time, could go in and determine and locate all documentation of all tests done on the

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Model 700's fire control that have not been destroyed?

A I would think so. But when you say "all," if some engineer did a test and he had --

Q If he stuck it in his file, you mean?

A Yes. I might not know that.

Q I appreciate that. But my question is more, are you familiar enough with your department that you have a pretty good idea where the information should be, what to look for, what cubby holes to look into and what buttons to push?

A Yes.

MR. HUEGLI: If I may interject, Peter, let me do this. In other words, John, are most of those test, the majority of the tests on the Model 700's fire control, are most of them kept in one area that would be readily accessible without running all over the plant or having trouble? Would it be easy to find those tests?

MR. CHAMBERLAIN: I am not going to ask you to do it in the next ten minutes.

THE WITNESS: It would be relatively

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easy. It is a pain, because you are after a specific thing. We are not testing for this specific thing. We are testing for many things. So you always have to go through a hell of a lot of paperwork to get after the thing that is very important to you.

MR. HUEGLI: Well, he is more concerned with just any tests. It doesn't make any difference of whether it is in that area.

MR. CHAMBERLAIN: I am interested in all the tests we just discussed.

MR. HUEGLI: Whether it has to do with tricking the gun or not tricking the gun. He is just interested in any tests performed on the fire control, the tolerances of the ball bearing, and anything else.

THE WITNESS: Well, we tested that one to see if the nylon ball or the still ball was --

MR. CHAMBERLAIN: Okay. I would just request production of those documents. I think I have requested them for about ten

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months. We would reserve the right to continue the depositions by phone. I can't say it will be Mr. Linde because I haven't seen the documents, but I would guess it will be him or somebody we have talked to.

MR. HUEGLI: Okay. Sure.

BY MR. CHAMBERLAIN:

Q Does your department get involved at all with product testing or analysis of used rifles that have come back in with complaints?

A Which department now? The one I am in now or the one I was previously in?

Q Let's start with the one you are in now.

A Yes.

Q How about the one you were previously in?

A Yes.

Q Okay. In either instance, has that involvement included any work with analyses of the Model 700?

A Yes. We have looked at 700 complaints.

Q In both the department you are in now and the one you were previously in?

A Right.

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Q Your present department is Product Engineering and Control?

A Yes.

Q And your previous one was Research and Development?

A Right.

Q Okay. Start with Research and Development and tell me what your involvement has been with customer complaints about rifles, Model 700's, where Research and Development was called upon to make some analysis. For my purposes, you can limit your answers to rifles where the complaint is, falls when safe is released.

A Okay. That eliminates the big bulk of them. The big bulk was the accuracy problem. They claimed they couldn't -- the claim was Redfield or somebody's scope wasn't right. They couldn't sight the scope. It was usually Redfield's scope. I know there have been instances where they will have a gun that they will say, "We have got a problem with the trigger assembly. Would you take a look at it?"

Q While you were in Research and Development?

A Yes. I can remember a couple particular instances.

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Q What do you remember about them?

A I remember one we got in was a seven millimeter Remington magnum. The guy had a hot load in it, and he tried to hammer the gun open. He busted the bolt handle off. He took a bandaid and pulled the safety back to the on safe position. He banded it there and put it in the mail and sent it to us. When they received it in Customer Repair, they called us and wanted us to look at it. We have had cases like this, yes, where we have assisted in the plant when we were in Research.

MR. CHAMBERLAIN: I will object to the responsiveness of that answer to the extent that it suggests that this case is a case like that.

THE WITNESS: I didn't mean it to be.

MR. HUEGLI: You asked him whether he remembered any complaints.

MR. CHAMBERLAIN: I was just reacting to the very last comment where he said, "cases like this."

THE WITNESS: Excuse me.

MR. HUEGLI: I don't have any problem with

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that. I will strike it. It was just an informative comment that Mr. Linde made.

BY MR. CHAMBERLAIN:

Q Can you think of any other Model 700 F.S.R. complaints that you worked with while you were in Research and Development?

A I don't remember any specifics about this gun or that gun, but I can remember working on some F.S.R.'s when I was in Research.

Q During your work on these, do you recall reaching a conclusion as to what caused the customer's complaint on any of them?

MR. HUEGLI: Okay. I will direct the witness not to answer that as a matter of expert opinion.

MR. CHAMBERLAIN: On previous cases?

MR. HUEGLI: Yes.

MR. CHAMBERLAIN: How does that relate to this case?

MR. HUEGLI: It is a matter of expert opinion on whether his opinion and his expertise allowed him to draw conclusions on certain

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points of expert testimony that we intend to introduce in this case, such as other malfunctions.

MR. CHAMBERLAIN: Okay. The cause of other malfunctions?

Would you mark your tape there and make a transcript of that question and objection and send it to me? You can charge me for it.

MR. HUEGLI: Before you continue, for the record, Mr. Linde is an individual who we intend to call in this case as an expert to testify regarding his expert opinion on causation of malfunctions or possible malfunctions of the 700.

MR. CHAMBERLAIN: Well, at this point, it should also be stated that he has testified he is the superintendent of Product Engineering and Control. He was in Research and Development, specializing in the Model 700 from 1974 to 1979, since we are only getting a partial transcript.

MR. HUEGLI: Off the record.

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(A discussion was held off the record.)

BY MR. CHAMBERLAIN:

Q You mentioned that there were some instances since you have been in Product Engineering and Control that there have been product complaints involving the 700's that have come to your department for analyses, right?

A Yes.

Q Do you recall, are there any such complaints that came in that involved the F.S.R. complaint on the 700?

A I don't personally know if there were. If there were, they would come up to our department.

Q Do you recall any in particular?

A No. I couldn't cite you one example.

Q One of your functions is or has been in the past to prepare changes in the field service manual, isn't that right?

A I have done that, yes.

Q And you did that while you were in Research and Development?

A Yes, I did.

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Q I will hand you what has been marked as Plaintiffs' Exhibit 4. Take a moment to acclimate yourself if you need to.

Take a look at the back page of that exhibit in the lower right-hand corner, J.P.L. Res. 3/76?

A Yes.

Q Are those your initials?

A Yes.

Q What is the Res.?

A That must be Research.

Q 3/76, is that the date of the revision?

A Yes.

Q As a practical matter, would that also be the date that the updated manual goes out to the field or a month later?

A It depends on how many manuals you have and what your demand for the manuals is.

Q Is that manual intended, then, to guide service people in the field with their repair of the Model 700 from March of '76 and thereafter?

A Yes. It is a field service repair manual.

Q I have one other one that was supplied by your

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employer that bears a code date of May of 1969. To your recollection, is the May of '69 version the one immediately preceding the March '76 version?

A I wouldn't know.

Q One section of the March '76 version bears the initials F.G.H. and then Research 3/76?

A Yes.

Q Would that indicate that somebody else other than yourself wrote the section that bears those initials?

A Yes. He was the individual responsible for the update of the whole field service manual.

Q Which part were you in charge of?

A I wasn't in charge of any of it. I was providing him with information.

Q Which part were you supplying him information about?

A Well, I was providing him information on a number of models. All the information on the 3200 was supplied by me. There would be my name on the target rifle that I was responsible for, anything that is changed or updated.

Q My question is with particular reference to the

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manual that is in front of you.

A Yes.

Q Exhibit 4, what part of that manual were you providing Mr. F.G.H. information regarding?

MR. HUEGLI: Just go through it one page at a time and each paragraph at a time.

THE WITNESS: I could do that, but there would be little changes maybe in a paragraph. You could change or add a sentence to make something clearer or something that you find where you are generating a burr, or something that has to be removed and you say that it should be scraped or something that you find in testing or from your customer repair experience that should be addressed. So I can't say which sentence is mine. And also, when you supply them the information, they being an engineer, they never like the way you print it to them, and they have to rewrite it to put it into their terminology, something that the so-called gunsmiths can understand better.

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BY MR. CHAMBERLAIN:

Q F.G.H. is Frank Hart?

A Yes.

Q Why do his initials appear on page 3 only of the manual and yours appear on the back page of the manual, if you know?

A I don't know.

Q But it is your recollection that he would have primary responsibility for the revision, and you were just assisting him?

A Yes. He was responsible for updating the manual. I was responsible for supplying him the information he needed.

Q Did you supply most of the information that appears on pages 11 and 12?

A Yes, I did.

Q And those pages are an addition to that manual that didn't exist in the previous manual, right?

A No. They never did.

Q No, they never existed in a previous version?

A That is right.

Q What was the reason for adding the section

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that appears on pages 11 and 12?

A To make the checks and adjustments of the trigger assembly clearer.

Q I note that on the top of page 11 it refers to the Models 725, 721, 722, 700 and 600, right?

A Yes.

Q Is it fair to say, then, that this two-page section became a part of the field service manuals for all of those gun models?

A Yes.

Q And it was uniform in all of those gun models?

A The checks, yes, they are.

Q Well, in fact, those two pages were identical in the field service manual for all those gun models, weren't they?

A Yes.

Q And that is why you put all five numbers at the top, so you could make one insert for all five manuals?

A That is right.

Q And you were able to do that because all five of those manuals -- correction, all five of those gun

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models are virtually identical in the area which you are describing on those two pages?

A As far as the functions you are talking about, yes.

Q And when you draw or have drawn an illustration of the relationship of the sear safety cam to the trigger connector and the trigger, that illustration is illustrative of those parts on all five guns?

A Oh, the illustration did not duplicate the parts on all five guns. The illustrations show -- like here, where it calls out a clearance, it shows those points that we want to call out. But as far as the sear safety cam or the trigger or the connector duplicating all five models, they do not.

Q They are just the same general configurations but not all the same?

A Right.

Q You said the reason for adding this to the field service manual was what again?

A To make it clear for the gunsmith to understand.

Q It wasn't clear before in those manuals, or it wasn't clear enough?

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A It was clear. But what you have to do is, you have to ask yourself, how much training does the gunsmith have. With the training that a gunsmith should have, the previous manual there was no problem with. What you find is that you have new people coming in. What we are doing is, we are just highlighting those parts about our trigger assembly that somebody new could read and readily understand, such as yourself.

Q In paragraph 3 of page 11 of the manual, the first sentence states that the safety should function on two positive stop positions, on safe and fire.

A Right.

Q Does that mean that the safety should be incapable of balancing between those two positions, in a null position?

A No.

Q What does it mean?

A It means you should have two positive stop positions. You could have --

Q Detent, in effect?

A Yes. Because if the detent spring was bent or you had some other problem in there, the safety could

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be pushed back and forth.

Q Okay. Page 11 has, at the upper left-hand corner, the words, "Safety Performance Check." Does that safety performance check refer to all of the procedures that are outlined on page 11?

A I don't know if you could say that.

Q Which part is intended to be the safety performance check?

A I don't know which part is to be the safety performance check. What I think that is, I think that is just the title of the page. I don't think you could say this is a check and that is not a check. I would have to go through it piece by piece and see if you wanted to redefine the heading differently, which would be and which wouldn't be.

Q So it doesn't describe any check on the page, right?

A Well, I don't know. I would have to go through it. First, we would have to decide what we mean by "Safety Performance Check," and then weigh each sentence against that.

Q Before this revision was prepared, did you have

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information that the trigger mechanism on the Model 725, 721, 722, 700 and 600 could be put into the trick condition?

A Before this was made?

Q Before it was, yes, immediately before it was drafted and printed.

A I don't know. The information on the 600 was around that time, but this change actually didn't have anything to do with that.

Q Okay. You know what I mean when I say "the trick condition," don't you?

A Yes. I know how I understand it.

Q Okay. Prior to the preparation of pages 11 and 12 of this field service manual, you knew or as part of your work with Remington that under certain conditions the Remington Model 700, as well as other guns that are listed at the top of page 11, could get into such a condition, whether you call it a trick condition or not, that when the safety was put into the fire position, the gun would discharge, didn't you?

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

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THE WITNESS: I don't understand your question.

BY MR. CHAMBERLAIN:

Q Okay. What I am talking about is the state of your knowledge back immediately before preparation of this page 11 --

A Yes.

Q -- of Exhibit No. 4:

A Yes.

Q We have been talking about that time period.

A Okay.

Q And my leading question, as Mr. Huegli pointed out, was that before this was prepared, isn't it true that Remington knew that the Remington Model 700 could be put into such a condition that the gun would discharge when the safety was moved to the fire position?

A Yes. Their people could alter our fire control or trigger assembly such that the gun could be put into a position that it would fire off of safe.

Q Let's eliminate that possibility, that the fire control adjusting screws have been adjusted. Even without adjustment of the fire control adjusting screws,

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the rifle could still be put into such a condition that the gun would fire when it was put off safe?

MR. HUEGLI: I object to that. Are you asking him, did you know that you could trick a 700 --

THE WITNESS: I knew that you could trick anything.

BY MR. CHAMBERLAIN:

Q And you knew you could trick a 700 without adjusting the adjustment screws?

A There are other ways to do it.

Q List them.

A You could take and the customer could disassemble it such that he hit the housing, deformed the housing. He could take it, and he could assemble it in a firearm. He could deform the trigger guard, for example, such that the trigger would bind on the trigger guard. He could deform the trigger. He could alter the trigger. He could alter the sear. He could alter the connector. He could cut the spring in half. He could adjust the engagement. There are a number of things that could be done to that.

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Q How about lubricant in the trigger assembly?

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

BY MR. CHAMBERLAIN:

Q Is lubricant in the trigger assembly one of the conditions that causes the gun to trick?

MR. HUEGLI: That being the only change?

BY MR. CHAMBERLAIN:

Q Well, you have read the Gun Examination Reports, haven't you, where the Gun Safety Committee or the Gun Return Committee has concluded that that was the cause of several failures, several guns that fired when the safety was moved to the fire position?

A I don't know as I exactly read them.

Q You are aware of them?

A I could believe that that could happen.

Q I may have already asked you this. This Exhibit 4, the field service manual, this is the one that would have been current in December of '76, wouldn't it?

A I believe so.

Q You are looking at page 11 of the field service

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manual under the section, "Malfunctions." Is that the page you wrote or at least drafted?

A Yes. I think so.

Q And you list three malfunctions: follow-down, firing pin falls when rifle is jarred or when bolt handle is lifted and firing pin fails to fall. Was there a reason in preparing your list of malfunctions that you did not list something along the lines of rifle fires when safety is moved from safe position to fire position?

A I would imagine it is because we didn't have that much experience with that being a problem.

Q Okay. You mean you didn't have customer complaints to that effect?

A I would think so.

Q Okay. Or at least if you did, you weren't aware of them, right?

A Well, you could have a complaint and you could check the complaint out and see what was causing the complaint.

Q Have you ever given your deposition before?

A Yes, I have.

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Q In Remington cases?

A Yes, I have.

Q How many times?

A Oh, it must be four or five times.

Q Did any of those involve the Remington 700?

A Yes.

Q Do you remember the case names?

A Yes. One would be the Shutts Case.

Q How do you spell that?

A S-h-u-t-t-s.

Q Shutts versus Remington?

A I would think so, yes.

Q Was that a 700 case?

A Yes, it was.

Q What was the claim in that case, if you recall?

A Accidental discharge.

Q Did it involve the safety? Did they claim it involved the safety?

A No. I don't believe so.

Q Where did you give your deposition?

A Syracuse.

Q Do you know what state the case was pending in?

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A It is pending right now.

Q In New York?

A Yes.

Q Do you know what county?

A No, I don't.

Q Do you remember the plaintiff's lawyer's name?

A No, I don't.

Q The person that was questioning you, do you remember his name?

A No, I don't.

Q How long ago did you give that deposition?

A It must be close to six months now.

Q You said the case is still pending?

A Yes, it is.

Q So there has been no trial that you are aware of?

A No, there hasn't been.

Q What other cases have you testified in?

A Oh --

Q Stick with depositions for a second.

A The Lange Case.

Q L-a-n-g?

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A L-a-n-g-e, I believe it is.

Q What type of weapon did that involve?

A Model 700.

Q Do you remember what the plaintiff's claim was?

A They had three or four claims. The most significant was we should have had an automatic safety.

Q Where did you give the deposition in that case?

A Right here.

Q Do you know what state the case is pending in?

A Illinois.

Q Do you know what county?

A No.

Q How long ago did you give that deposition?

A The deposition was -- geeze, I don't know. It must have been over a year ago.

Q Do you remember the plaintiff's lawyer's name?

A Sibley, S-i-b-l-e-y. That is what his name was, Sibley.

Q Do you remember his first name?

A No, I don't. It was some German name, though.

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Q You said that the primary claim they were making was that the rifle should have had an automatic safety?

A They had four or five claims.

Q Do you remember what the other three or four were?

A I think we also had questions concerning the three-position safety. They said we should have had a three-position safety or an automatic safety. There was a question on the trigger adjusting screws. We should have had a different locking method on the trigger adjusting screws. We should have given more detailed warnings on the adjustments, on the trigger adjustment screws.

Q Okay. Do you remember any other names of cases that you have given depositions in?

A I don't know the names. Just on the 700's, you are talking about?

Q Yes. Well, let's first stay with the 700, and then we will move to other areas.

A I was involved in a case on a 788, but I don't know if I actually gave a deposition in that.

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Q Do you know the name of that case?

A Schoonover.

Q Schoonover?

A Yes.

Q Can you spell that?

A S-c-h-o-o-n-o-v-e-r.

Q What state was that pending in?

A Pennsylvania.

Q How long ago was that?

A Must have been at least five years.

Q What county, or where did you give that deposition?

A I don't know if I gave a deposition in that or not.

Q Did you travel to Pennsylvania?

A Yes, I did.

Q Where did you go?

A Warrensburg or Warrens. I think it was Warrensburg. Anyway, it is about ninety miles from Erie, Pennsylvania, the back roads. It was a motel.

Q It sounds like a great place.

MR. HUGEL: It sounds like Herkimer.

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THE WITNESS: Warren. I think it was just Warren, Pennsylvania.

BY MR. CHAMBERLAIN:

Q Do you remember what the plaintiff's claim was in that case?

A I believe it was a two-position versus a three-position safety.

Q Do you remember the plaintiff's lawyer's name in that case?

A No, I don't.

Q Can you think of any other cases where you have given depositions for Remington, whether they involved the 700 or not?

A Well, I gave a deposition on a case on a shotgun, a barrel strength. I can't remember. It was a high-pressure reload, but I don't know the details on that.

Q Are there any others that come to mind?

A No.

Q How about trial testimony, have you ever testified at any trials --

A Yes.

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Q -- for Remington?

A Yes.

Q How many times?

A Just one.

Q What case?

A Lange.

Q And you were testifying in Illinois?

A Yes, I was.

Q What city?

A Murphysboro.

Q You get all the good jobs.

Q Do you know what the result was in the trial of that case?

A Yes.

Q Who won?

A We did.

Q A defense verdict?

A Yes.

Q That was a case where the trigger adjusting screws had been adjusted out of the factory?

A Yes.

MR. CHAMBERLAIN: Do you want to take a

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break for lunch?

MR. HUEGLI: Great idea.

(Whereupon, a lunch recess was taken.)

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August 18, 1982

AFTERNOON SESSION

JOHN LINDE, having been previously duly sworn, testified further under his oath as follows:

MR. CHAMBERLAIN: Mr. Linde, you are still under oath.

THE WITNESS: Yes, I know.

BY MR. CHAMBERLAIN:

Q Have you seen this firearms safety booklet?

A Yes, I have.

Q -- that Mr. Huegli just gave me?

A Yes.

MR. CHAMBERLAIN: Do you want to have that marked?

MR. HUEGLI: We may as well.

(A document was marked Plaintiffs'

Exhibit 31 for identification.)

BY MR. CHAMBERLAIN:

Q Exhibit 31 is not a Remington publication, is it?

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A No, it is not.

Q It is put out by the Supporting Arms and Ammunition Manufacturing Institute?

A That is right.

Q That is a manufacturers' group?

A It is a group established for standardization in the industry.

Q And Remington is a member of that group?

A That is right.

Q Amongst other gun manufacturers?

A Correct.

Q And ammunition manufacturers?

A That is right.

Q Are there others besides those two groups that are members of that institute?

A I don't think so, no.

Q Do you know from your own knowledge or from something you can tell from that little folder, Exhibit 31, when it was printed?

A No. I do not know what their code would be.

Q Do you know when it may have been last revised?

A No, I do not.

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Q Is it your understanding that this Exhibit 31 is the current version of this little booklet?

A It sure appears to be.

Q And is it your understanding that Remington at the present time puts one of these in each of these new gun boxes?

A We try to, yes.

Q Do you know how long they have followed that practice?

A Oh, for quite a number of years.

Q Do you know how many years?

A No, I do not.

Q Do you know if it is more or less than five years?

A It would be more than five years.

Q More or less than ten?

MR. HUEGLI: Are you talking just about S.A.A.M.I. or one like that?

MR. CHAMBERLAIN: One like that or this one.

THE WITNESS: There has been one like this since I started here.

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BY MR. CHAMBERLAIN:

Q Which was when?

A '65.

Q If I wanted to get a copy of the one or the version that was around, say, five or ten years ago, I suppose I would need to go to S.A.A.M.I. for that?

A I don't know. I don't know if we would have it or not.

Q Are you familiar with any patents owned by Remington Arms?

A Yes.

Q Are you aware of any patents -- I want to talk about patents that they own but are not presently using. Do you know about any of those?

A What do you mean, owned but not using?

Q Well, a patent that they have registered with the patent office for a device that is not presently being employed on a Remington rifle.

A Yes.

Q And that has never been employed by a Remington rifle?

A Yes.

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Q Within that category, are you aware of any such patents or safety devices?

MR. HUEGLI: I don't know what Remington's position would be here on any trade secrets. Bob, what do you think?

MR. CHAMBERLAIN: We would be entitled to a protective order for disclosure outside this lawsuit. I will stipulate to such an order.

MR. HUEGLI: Do you have any comments on answering questions on patents?

MR. SPERLING: Let's see how specific we get into this.

MR. CHAMBERLAIN: Furthermore, I think it is a public record. I think you can get it at the patents office.

MR. HUEGLI: I only know Coke bottles have, "Patent Pending," on them. That is about as deep as I get into it.

BY MR. CHAMBERLAIN:

Q Are you aware of any patents that relate to safety devices that are owned by Remington but are

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not presently employed and have never been employed on their rifles?

A No, I am not.

Q When I say "safety devices," how do you take my question?

A Pertaining to the trigger assembly.

Q This is how I meant it. How about devices, are you aware of any patents that Remington owns for devices that would potentially aid in preventing foreign material from entering the rifle at various places?

A No, I am not.

Q Or keeping debris out of the rifle, or anything like that?

A No, I am not.

Q Have you ever heard of the Military Firearms Mud and Dust Test?

A Yes, I have.

Q You have heard of that?

A Yes.

Q What is that?

A It is a test where they expose a rifle or a shotgun, anyway, a firearm, to a certain amount of

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dust and/or mud.

Q And they test its functions?

A That is what I understand.

Q Is that something that has been performed on Remington rifles, to your knowledge?

A I am sure it has.

Q Within the company?

A I am sure it has. I have never seen any results, or anything, but I would think it would have to be done. I don't know if it would duplicate the government's test. Just because they have a test, that doesn't mean we would duplicate their test.

Q If such a test has been performed on your rifles and if test results were prepared, would those results be in such a place that your staff, who is looking for other test results, would also find the mud and dust test results?

A I don't know on that, because I imagine all that testing would have been done when we started the original trigger assembly.

Q Back when?

A Well, the original design for the 700 is an

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offshoot that started in '48.

MR. CHAMBERLAIN: Jim, the only thought there is if he is hunting for tests and turns up some mud and dust test results --

MR. HUEGLI: You will get them. Any test results that he has or that he has available through his office or anywhere in that area that he is even aware of, he has promised to get photocopies of.

THE WITNESS: One question, though. We get all of it back, right?

MR. HUEGLI: Well, we are just going to photocopy them.

THE WITNESS: But we get all of the photocopies back?

MR. HUEGLI: Off the record.

(A discussion was held off the record.)

MR. CHAMBERLAIN: Back on the record.

BY MR. CHAMBERLAIN:

Q: You are familiar with the trick condition that has been experienced on the Remington 600?

A: Yes, I am.

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Q: What is your understanding of what happens physically in the trigger mechanism of the gun when it goes into the trick position?

A: Okay. The condition is set up by moving the safety lever to the intermediate position, to a position dynamically off safety. This would be a position where the detent ball is sitting on the sharp edge. At that position, the trigger is pulled smartly at some degree of force back. Then the safety lever is pushed forward. That is the trick test.

Q: And if the rifle fails the trick test, the rifle discharges at that point?

A: The firing pin falls.

Q: And if there is a bullet in it, it goes off?

A: It would discharge.

Q: Okay. Now, using the figure on page 11 of Exhibit 4, can you tell me physically what is happening in the relationship between the sear safety cam and the trigger connector when the Model 600 has been set up in the trick condition?

A: Okay. The cam under the rear surface, that is, the safety cam, it is under the rear surface of the sear

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when the gun is on safe. When it is put to the intermediate position, there is a slight variation on that cam. It lets the sear safety cam come down slightly. It comes down a little. When the trigger is pulled, the trigger connector is trapped in front of the sear safety cam so it can't return. The safety cam is then supporting the sear. Then it is allowed to fall away, allowing the trigger to fall.

Q: Is it or is it not part of that condition that the corner of the sear safety cam that has a circle around it here is point on point with the corner of the trigger connector that also has a circle around it?

A: I don't understand what you are saying.

Q: Is it part of the trick condition that the corner of the sear safety cam that is circled here hangs up point on point, like that, with the corner of the trigger connector?

A: It could. That would be part of it.

Q: It would either be hung up, like that, or it would be in a condition such that the trigger connector has moved to your left so that it can't support the sear safety cam any longer?

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A: That is right.

Q: Okay.

A: You should check for live ammunition first. Just looking in the chamber is all you have to do.

Q: I don't see any. Okay.

This gun is cocked. It is on safe. With my finger, I am going to hold it partially off safe and somewhere between on safe and off safe. I want you to listen to the noise it makes when I pull the trigger. Did you hear that noise?

A: Yes.

Q: Now, physically, when I pulled that, has the trigger connector on the rifle, Exhibit 2, done what you described? Has it gotten behind the sear safety cam such that it can no longer support it?

A: That is right.

Q: When I let go of the safety lever, the spring in it will push it to the fire position, and the hammer will fall or the firing pin will fall?

A: Yes.

Q: Okay. From what you described about the 600, it sounds like what you are saying is this slight

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unevenness in the cam that holds up the sear safety is what sets up the trick position in the 600.

A It is the clearance that is generated between the two parts.

Q The decreased clearance as you move that safety lever forward?

A Well, actually, as you come back over to the front of the radius. There is a radius on the leading edge of that cam. When you get to the null position, you are starting to come down the radius.

Q Has the field service manual been revised since this 3/76 revision?

A I would think it has, but I don't know.

Q It would need to be revised to delete references to the 725, 723, 721 and 600, right?

A Why?

Q Aren't those no longer -- Withdraw the question.

This information would still be useful for someone servicing those models, even though they are no longer being manufactured?

A That is right.

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Q Okay. But you think that this has been revised since 3/76?

A No. You said, could it have been, and I said, yes, it could have been.

Q Do you know if it has been?

A No, I don't.

Q Do you have any information that it has been?

A No, I don't. But '76, it seems like it has been awhile.

MR. CHAMBERLAIN: Jim, I assume it has not been, since we don't have a newer one here. Can you verify that?

MR. HUEGLI: Sure. In other words, is there a difference between the '76 one and the current one?

MR. CHAMBERLAIN: Yes. We had asked for all of them, and we got May of '69 and this one.

MR. HUEGLI: Do you know if there is a difference, Bob?

MR. SPERLING: I don't know.

MR. HUEGLI: Santina might know that.

MARTIN MURPHY, CSR, P.C.

Off the record.

(A discussion was held off the record.)

BY MR. CHAMBERLAIN:

Q I will hand you a booklet, Exhibit 4. I have a couple of more questions for you. Take a look at paragraph 1, 2, 3, 4, 5 on page 11 of Exhibit 4. Read that, and I will just ask you a couple of questions.

A The one starting with, "When repairing?"

Q Right.

A Okay.

Q First, it makes reference to washing parts with a petroleum solvent. What is a petroleum solvent in common parlance? Is that gasoline, or is it --

A A petroleum solvent wouldn't be gasoline. It could be gasoline. It could be classified as a solvent, but it is dangerous.

Q Kerosene?

A Kerosene, yes. But the gunsmiths have a thing they use, such as Hopics.

Q In this field service manual, you felt comfortable in using a, more or less, generic term that you felt they would understand?

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A Sure. That is their occupation, using a solvent.

Q And then it states in that same paragraph that an accumulation of gun oil or dried gun oil can build up film that may cause malfunctions. Do you anywhere in that manual tell the reader what malfunctions can be caused by these conditions you describe?

A Geeze, I don't know. The next page -- there isn't a page that lists the malfunctions.

MR. HUEGLI: Take your time and look through the whole manual, if you would. Of course, I really think that the document speaks for itself as to whether the manual does or does not make such statements.

THE WITNESS: Yes. You can read through it yourself and read through that.

BY MR. CHAMBERLAIN:

Q But no specific section comes to mind that lists those?

A No.

Q Well, let me ask you this. What malfunctions

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are you aware of that can be caused by an accumulation of gun oil or dried gun oil that builds into a film in the trigger assembly?

A Well, you could get a follow-down. You could get a follow-down. That would be the key malfunction that I can think of.

Q And that is a fairly significant malfunction, because a follow-down is the gun firing when the bolt is closed?

A No. That is a jar-off.

Q That is a jar-off?

A Yes. A follow-down would be caused when if you had lots of gunk in there, it would bind the trigger. You could open the gun, and when you closed the gun, the trigger -- the firing pin assembly follows the cam down there again. When you close it, it becomes uncocked by itself.

Q It doesn't fire?

A No.

Q With a jar-off, it does fire?

A A jar-off does fire, yes.

Q Can you think of any other malfunctions that

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could be caused by an accumulation of gun oil or dried oil that you were referring to in that paragraph?

A Yes. Actually, it would end up as a follow-down, too, if the sear stuck down. If the sear stuck down if you pulled the trigger and the sear stuck down and wouldn't let the trigger return under the sear, then you would also generate the follow-down.

Q But the gun would not fire?

A Right.

Q Isn't it true also that an accumulation of gun oil or dried gun oil can cause the rifle to fire when the safety is released?

A How would that happen?

Q Well, are you, in your experience, aware of that ever happening?

MR. HUGLI: Without anything else happening? Without the trigger being pulled, or anything like that?

MR. CHAMBERLAIN: Well --

THE WITNESS: Not just by itself. I don't see how it could happen.

BY MR. CHAMBERLAIN:

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Q How about assuming an accumulation plus being set up in the trick position.

A The trick position?

Q An accumulation of grease and then the gun being put into the null position, between fire and safe, the trigger being pulled, it being put into the fire position, you have never heard of that causing the gun to go off?

A No.

Q If you were aware of that and if you were aware that that could happen due to this accumulation of dried gun oil or gun oil, would you want to tell your readers of this manual of that possibility?

A I would think so. I have never heard of that.

Q And you would want to tell them that because it would be an otherwise dangerous condition, wouldn't it?

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

BY MR. CHAMBERLAIN:

Q Wouldn't it? Any time a gun discharges unexpectedly, that is dangerous, isn't it?

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A That is right, yes.

Q As used by you and Remington and as used in this manual, is the term "misfire" referring solely to the situation where the firing pin falls and the ammunition does not discharge?

A That would be one terminology of it, yes.

Q Is it also used to describe an accidental firing of a rifle?

A I have never heard of misfire to describe an accidental firing.

Q I hadn't either. I just wanted to make sure we agreed on our terms.

Do you know what the letter designations ADL and BDL stand for?

A Actually stand for?

Q Yes.

A No, I don't.

Q I don't either.

MR. CHAMBERLAIN: That is all the questions I have. Thank you.

MR. HUGLI: Off the record.

(A discussion was held off the record.)

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MR. HUEGLI: Could you read me back the question and answer regarding the trick condition and the accumulation. We will find it.

(The following was read back by the reporter as follows: "QUESTION: How about assuming an accumulation plus being set up in the trick position? ANSWER: Trick position? QUESTION: An accumulation of grease and then the gun being put into the null position, between fire and safe, the trigger being pulled, it being put into the fire position, you have never heard of that causing the gun to go off? ANSWER: No.")

MR. HUEGLI: That is far enough. Thank you.

BY MR. HUEGLI:

Q Mr. Linde, you answered a question just a few moments ago regarding a gun being gummed up and then being put in the trick position and then discharging when the safety was in the fire position. You indicated, as I recall your testimony, that you had not heard of

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that type of a situation occurring within those terms, using that as a trick case?

A That is right.

Q Can you explain to us why a gun would discharge when it is gummed up, if you will? And we are using that term loosely in terms of a dirt and oil accumulation in the fire control. Why would that cause a gun to discharge?

A The trick actually has nothing to do with it.

Q Okay. Let me stop you for a moment. Is the gummed up situation and the trick situation, are those two independent conditions?

A They are independent conditions.

Q Okay. Do they ever operate, to the best of your knowledge, together?

A No. That is the way I understood the question. If you have a particular condition and the trick condition, have I ever seen the same condition in the same gun? I never have.

Q Have you seen or heard of a gummed up condition in a 700 causing the rifle to accidentally fire under some circumstances?

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A Yes. You can set it up. If you are blocking the trigger in some way, whether it be gun or be deformed in any way that causes a distortion or interference with the trigger, then you can set the gun up to discharge when the safety is released.

Q Okay. Now, in your experience with Remington and all the 700's that you have seen, tested and examined, have you ever seen a 700 which could be set up in the trick condition that had not been misused? In other words, one that came right off the factory per specs and was clean, have you ever seen that?

A No.

Q A trickable 700?

A No, I have not.

Q Have you ever heard of one?

A I have heard of them. And then when we have gotten them in and looked at them, it is not a trick.

Q It is some other cause?

A It is some other cause.

MR. HUEGLI: Peter, may I see the rifle for a moment?

BY MR. HUEGLI:

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Q In the situation that Mr. Chamberlain described to you, he had the rifle with the bolt cocked and the gun in the safe position. Excuse me. He had the gun in the fire position. He then moved the fire position back over so slightly and pulled the trigger. We heard a click.

A Right.

Q Which is the sear falling?

A The sear is coming ahead of the sear safety cam, and the sear safety cam is coming down.

Q If the spring-loaded safety is released and it fires, is that a trick-type condition?

A No, it is not.

Q What causes that?

A Because you have --

Q -- pulled the trigger?

A That is right. Well, what you have done is -- actually it is not in the safe position. It is in the fire position. All you have done is brought the safety back a little ways. You are not canned, or anything. You are interrupting the travel of that part, blocking it partially with the safety.

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Q Now, the trick position, then, is placing the safety -- Strike that, please.

As Mr. Chamberlain described this to you, is the position of pulling the safety back ever so slightly and pulling the trigger allowing the sear to fall and releasing it, is that position that the safety is in right now the null position?

A No, no, it is not. You have to get it back, as I described previously so that the detent is right on the --

Q -- point?

A On the point.

MR. RUEGLI: Okay. That is all I have.

BY MR. CHAMBERLAIN:

Q Mr. Linde, you stated that you do have knowledge that the 700's have, on occasion, been caused to fire when the safety is put into the fire position and that your information is that that is caused by a gummed up condition in the trigger mechanism.

A No. I said that could be a cause.

Q Okay. Could be caused by a gummed up condition in the trigger mechanism?

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A That is right.

Q Now, when that happens, would the operator be moving the safety from the full safe position to the full fire position and that would happen as you described it?

MR. RUEGLI: I object to the form as being purely speculation as to whether or not the same operator would do the same thing on every case.

BY MR. CHAMBERLAIN:

Q Well, what I am trying to get at is this. You are distinguishing the trick test, which is fine. But assume this rifle was gummed up in the trigger such that it could cause the problem you have described. Okay?

A Okay.

Q Assume that the gun is cocked.

A Okay.

Q Based upon your knowledge of the problem we are discussing, the gummed up problem, does it then just require a flipping of the safety, or does it require a combination of moving on the safety, pulling

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on the trigger and moving the safety again?

A It requires a combination of events.

Q The latter that I described?

A Similar to that, yes.

Q Okay. Different somehow?

A Well, you have to put the gun on safe first.

Then you would have to pull the trigger going all the way back. And then the trigger would have to bind there by some means, and then you would kick the safety out.

Q Okay. Thank you.

Now, the problem that you had with my earlier question was you thought I was combining a gummed up problem with a trick condition on the rifle?

A That is what you said, I thought.

Q And your answer was that it never happened because, in your experience at least, the 700 doesn't trick?

A That is right.

Q Okay. The gum up or the gummed up condition that you referred to can be caused by an accumulation of oil or dried oil which can build up into a film?

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A It has to be a lot of dried oil.

Q All right. Well, in the safety performance check, which you largely authored, you just said that an accumulation of oil or dried oil can build a film which may cause malfunctions.

A Right.

Q It doesn't say a lot of dried oil there, does it?

A No. But you asked me what it takes.

Q And your understanding of what happens physically, then, is that the gummed up or dried oil blocks the trigger from returning to its forward position?

A Well, actually, your rearward position. I would call it the rearward position.

Q You are talking about the top part of the trigger?

A Okay, yes.

Q Anyway, it is your understanding that that gummed up condition keeps the trigger into a pulled condition, if you will?

A Yes.

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Q And thereby keeps the trigger connector under the sear safety cam so there is no sear safety cam/trigger connector engagement?

A That is right.

Q Do you know what the source of the term "trick" is that is used in the trick test?

A Yes.

Q What is it?

A Somebody came up with that term because they thought it described the condition, that it was a trick. You are tricking the gun.

Q Fooling it?

A Fooling it, yes.

Q Okay. Do you anywhere in the field service manual tell the gunsmith that this accumulation of oil or grease or gummed up condition can block the trigger?

A No. The only thing we say here is on this page, which you had me read, that it can cause a malfunction.

Q It doesn't say what that malfunction is, a fall-down or a jar-off or a sear stuck in the downward

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position or a discharge of the rifle as the safety is flipped to the fire position, right?

A No, it doesn't. But if you were a gunsmith and you understood how the parts worked, I think it is pretty much obvious.

Q Are you familiar with the owner's manual?

A Somewhat, yes.

MR. HUEGLI: This is just the green copy of it.

BY MR. CHAMBERLAIN:

Q Here. Take Exhibit 10. Look at the second printed page under, "Lubrication." Now, that tells the user to use little or no oil on the action, right?

A That is right.

Q And it says to wash action parts with petroleum solvents and to dry them and recoil them lightly, very lightly?

A Yes.

Q And it tells them to watch out for various changes in temperature, because that can cause condensation and wetness?

A Yes.

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Q It tells them to remove excess oil if they are shooting in freezing weather, right? It says to do that for best results, right?

A Yes.

Q Now, this doesn't even go as far as the field service manual. It doesn't suggest to the user that an accumulation of oil might cause a malfunction?

A No, it doesn't.

Q And it certainly doesn't suggest what various malfunctions might occur, does it?

A No, it doesn't.

MR. CHAMBERLAIN: Okay. That is all I have.

MR. HUEGLI: That is all.

(A short recess was taken.)

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

I, JOHN LINDE, being duly sworn, hereby state I have read the above deposition of my testimony in the above-entitled action taken on August 18, 1982, before LORRAINE SMITH, a Shorthand Reporter and Notary Public, at Remington Arms, Ilion, New York, and that the same is true and correct.

*John B. Linde*

Sworn to before me this 25<sup>th</sup>  
day of October, 1982.

*Margaret D. Hall*  
MARGARET D. HALL #4637696  
NOTARY PUBLIC, STATE OF NEW YORK  
REGISTERED IN HERKIMER COUNTY  
MY COMMISSION EXPIRES MARCH 22, 1984.

MARTIN MURPHY, CSR, P.C.

**C E R T I F I C A T E**

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

Dated: September 16, 1982

Lorraine Smith