

STIPULATIONS

At said time and place, the following stipulation was entered into by counsel present for the respective parties. It is hereby stipulated and agreed by and between the parties hereto, through their respective counsels, that the deposition of Robert L. Joy, a material witness called for the examination by Plaintiffs may be taken before Lorraine Smith, a Notary Public, at this time and place on oral interrogatories, direct and cross, to be propounded to the Deponent. It is further stipulated that all irregularities as to notice of time and place and manner of taking said deposition are hereby waived, except that each party reserves the right to object at the time of trial to any question or answer but that objections as to the form of the questions or irresponsiveness of the answers are waived unless made at the time of taking said deposition.

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ROBERT L. JOY, 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. Joy, would you state your address for the record, please?

A R.D. 1, Box 144, Mohawk, M-o-h-a-w-k, New York. The zip is 13407.

Q And you are an employee of Remington Arms?

A Yes.

Q My name is Peter Chamberlain. I represent Mr. and Mrs. See in a lawsuit that they have brought against Remington Arms arising out of a gunshot wound to Mrs. See that we have alleged occurred back in 1979 and that we have alleged involved the Model 700 rifle to my left.

Have you ever had your deposition taken before?

A No.

Q Was it explained to you what a deposition is and what we are going to do?

A Yes.

Q Do you understand that?

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A Yes.

Q Have you ever testified in court before?

A No.

Q Okay. Do you know you are under oath and it is just as though we were in a court of law?

A Yes.

Q And it is very important that you understand my questions before you try to answer them. This is the only chance I get to talk to you before trial. I am sure it is just as important to your company as it is to me that you answer my questions and that the answers you give are responsive. So if you don't understand what I am asking you or if my question is ambiguous, ask me to stop and repeat it or change it in some way so you do understand it.

A Yes.

Q It is also important for the court reporter that you answer out loud and without nodding your head. Your answers should be yeses and noes and not huh-uhs or uh-huhs, because that gets her confused.

A I will do my best.

Q Likewise, it is important that you wait until

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I finish my questions before you start your answers.

A Okay.

Q What is your present position with Remington?

A I am an engineering assistant.

Q In what department?

A Department 82.

Q Does that have ammo, also?

A Yes. It is the current products section of Process Engineering and Control. Current Products Process Engineering is actually the name of Department 82.

Q How long have you been in that department?

A Since December of 1973.

Q How long have you been with Remington?

A Since April 8, 1968.

Q What is your age?

A Thirty-four.

Q What is your educational background?

A I have a high school diploma, plus two years of technical school, college. I do not have an associate's degree. I have enough credits for it, but I do not have the degree.

Q And that was engineering related?

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A Mechanical technology.

Q And you went right from there to Remington?

A Yes.

Q Have you been employed anyplace else since, say, high school?

A Yes, one other place.

Q Where was that?

A This was just a two-week summer job with Valley Beer Wholesaler, over in the next town.

Q What did you do before you were an engineering assistant for Remington?

A With Remington?

Q Right.

A I worked in the company shooting gallery.

Q From '68 to '73?

A No. It is hard to recall the exact date, but I worked approximately two years in the company shooting gallery.

Q Did that end at the time you became an engineering assistant in Department 82?

A Yes.

Q What did you do your first three years at

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Remington?

A My first two years, I was a draftsman. My third year, I worked as a components auditor in Quality Control.

Q Okay. Components auditor is what, someone that checks parts of the gun before they go to assembly?

A Measures the various cuts on components.

Q Is it a random check?

A Yes.

Q Check each part?

A It has to be random.

Q As a components auditor, were you involved solely with one particular gun or did you work on all products?

A Well, it depends on your assignment. As I recall, I worked on shotgun components primarily at that time.

Q Did you ever work on the 700?

A I had no departments that had rifle components at the time.

Q Okay. In the shooting gallery, you were doing the gallery test on new rifles?

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A That is the function of the gallery. That was not my function.

Q What was your function?

A I oversaw operations. I was a group leader.

Q Okay. So you weren't actually down there firing the guns?

A No.

Q Then, you wouldn't have been one of the people that put your initials by stamp on the barrels of the guns, is that right?

A I am sorry. Would you repeat that?

Q Would you be one of the people that would put the gallery test stamp on a gun?

A Oh, I would not.

Q Now, Mr. Hardy tells us that when he goes on vacation, you take over for him in his department?

A Yes. I try to.

Q Okay. Do you work in that capacity at any other time or have you ever?

A In which capacity?

Q What he is. He told us he was a senior technician, that one of the things he did was to receive

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incoming guns from customers, review their complaints and prepare a Gun Examination Report.

Q And you do that for him when he is on vacation?

A If it needs doing, if there is a backlog.

Q And there have been occasions in the past when it needed doing?

A Yes.

Q Okay. Are there any other times that you work in that capacity other than when Mr. Hardy is on vacation?

A Several years back, that was part of my normal job for a period of time.

Q It was, okay. Do you remember about when that was?

A That is hard.

Q Well, what was the rest of your normal job at that time?

A Essentially, the same as what Mr. Hardy's job is now. I was involved with those models that he is involved with.

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Q Including the 700?

A Yes.

Q And the 600?

A I have got to say yes. We made the 600's, yes, back when I was involved.

Q How about the 788?

A Yes.

Q 721?

A Never had any experience with the 721.

Q 722?

A No.

Q 725?

A No.

Q Okay. When you were involved in drafting, what was your function there? I know what the drafting person does, but were you working on a particular project or a particular design?

A No particular design, just random tool design work that was required by people such as myself now, by process engineering people.

Q So if someone wanted to prepare something to make a gun part, they would go to you and you would

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draw the tool?

A Normally -- it could work that way, yes. Normally the kind of work that I was doing -- I was fresh out of school at the time and somewhat of, well, a detailer, you might say. Most of the work I was doing the design concepts were usually dictated by someone else to me, either the engineer who wrote the request for the job I was doing or the tool designer who actually did the design work. I did the detail work for him. I really did very little designing on my own fresh out of school.

Q Do you recall if you worked on the 700 during that time period?

A No.

Q 600?

A No.

Q 788?

A I don't recall any real specifics about what I did.

Q By the way, if I ask you a question that you don't know the answer to or that calls for you to guess, let me know that you are guessing rather than telling

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me --

A Sure.

Q -- something you remember.

Q Are you familiar with the recent change in design of the Model 700 as of, I think, February of this year?

A Which change or what change?

Q The change that enables that gun to be now unloaded without taking the safety off.

A Yes.

Q Were you involved in any way in helping that change along or making it?

A No.

Q As Mr. Hardy explained it, the change involved the taking off of the trigger assembly, the bar that comes up and locks into the bolt and that that was the only change made. Is that consistent with your recollection?

A That is right.

Q So now the bolt cannot be locked, but you can unload it without putting it in the fire position?

A You can unload it without putting it in the fire position?

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Q Correct.

A Correct.

Q Okay. Has anyone talked to you about why that change was made?

A No, not to me directly.

Q Do you have any information as to why it was made?

A Only my own assumptions.

Q What are they?

A Convenience.

Q That it is more convenient to --

A It decreases the cost of the safety assembly, the safety components, the actual safety stamping, safety stamps that we buy from an outside vendor.

Q Because there is less metal on it?

A Yes. It is simply tied to design.

Q Are there any other assumptions you have why that change was made?

A No.

Q Are you familiar with any other lawsuits whether now pending or not that have been brought against Remington Arms where the plaintiff or claimant

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has claimed that the Model 700 Remington rifle was originally defective?

A Only that there have been some.

Q You don't know any names?

A No. I don't know any particulars.

Q Were you around Remington when the change was made on the Model 788, to change the trigger on that rifle so that you could unload it without putting it in the fire position?

A I am not even sure if that is a recent change that we made on that model or not, because I have not been that close to that model in some time.

Q As part of your job in the design department, do you get involved with reviewing potential new designs, changes, any particular changes to the safety or trigger on Remington rifles?

A No.

Q No?

A No. I was not in R & D. I was in the service section.

Q Okay. What is the service section? What does that mean?

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A This would be design work that relates to tooling that has to be made to make the parts which the research department issues drawings for.

Q Okay. So R & D decides we are going to change the trigger --

A Yes.

Q -- to delete the bolt lock.

A Yes.

Q And they prepare drawings to do that. If the trigger was something that was manufactured in house, you would then prepare the tooling to make that change?

A That is correct.

Q Like if the bolt lock was a stamped out piece, you would change the stamping?

A Yes, if that was something that was done in house.

Q Which it is not, I understand?

A Right.

Q Who does that?

A I don't know who the vendor is.

Q Have you been involved at all with the preparation of the owner's manual for any rifle?

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A No.

Q How about for the field service manual?

A No.

Q Do you get involved at all with the preparation of patents or applying for patents or reviewing patents that Remington has?

A No.

Q Testing, are you involved at all in product testing or have you been in the past?

A Only in my gallery experience in overseeing some of the test operations.

Q Are you familiar with the test called, I think it is, the Military Fire Arm Mud and Dust Test? Have you ever heard of that?

A It sounds like a good one. No, I haven't.

Q Are you familiar with an organization that is simply known as S.A.A.M.I., S.A.A-M-I?

A Yes.

Q What does S.A.A.M.I. stand for?

A Supporting Arms and Ammunition Manufacturing Institute.

Q What is their function?

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A As I understand it, S.A.A.M.I. is a collection of representatives from all of the major gun and ammunition producers in, I guess, this country who get together and decide on standards which the industry will go by.

Q A manufacturers' association, then?

A Essentially.

Q Do you know, do they prepare any sort of standards for the manufacturing of firearms themselves?

A Yes.

Q Guidelines?

A Yes.

Q Is that something you have seen?

A Yes.

Q What are they called, the various things you have seen?

A Well, the ones that I have seen have been mainly chamber dimensions, S.A.A.M.I. chamber dimensions.

Q Have you ever seen anything from S.A.A.M.I. that relates to trigger mechanisms?

A No, I haven't.

Q Safeties?

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A No.

Q Fire controls?

~~Yes.~~ No.

Q Tell me a little bit about what you did when you filled in for Mr. Hardy. I am particularly interested in the procedure you follow when a rifle comes in and/or a complaint comes in and you are called upon to prepare a Gun Examination Report.

A When I filled in for Marshall, if it was the time of year when, like after hunting season when more guns come in for repair, or whatever, and there happened to be a backlog of rifles that needed reports written and it became apparent to me -- I used to check for them on a weekly basis. At any rate, I would try to do as many as I could just to keep them from building up on him.

What I used to do is take an armful of them and go through the preliminaries on them and turn them over to the investigating committee.

Q First of all, when did you do this job? Was it once a year or twice a year?

A Well, it may have varied from one year to the

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next. But I would say maybe once or twice a year.

Q When was the last time you did it?

A I don't remember for sure.

Q Are you out of that duty now?

A Yes.

Q You are in a different department, so you don't have to do it?

A I am still in the same department, but the assignments have changed such that that is not part of my normal duties now.

Q Okay. Can you give me an estimate of when you first may have been involved in Gun Examination Reports?

A First?

Q Yes.

A I am guessing, but I would say around 1975.

Q Okay. Mr. Hardy told us he has only been in the senior technician role for about five years and he didn't do those reports before that. Is it fair to say, then, you were involved before he became a senior technician?

A Yes.

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Q Do you know what happens to the Gun Examinations Reports after they are filled out and after the committee does its work? Do you know how they are filed?

A No.

Q Do you have any information about document retention, how long they keep them?

A As far as these reports are concerned?

Q Right.

A No, not specifically.

Q Was it your practice to keep ones that you had worked on yourself? Would you keep a file copy?

A No.

Q Okay. Lucky for you, these only go back for three years. What was your practice -- I want to talk in particular about Remington Models 700 ADL, BDL, Varmints, that type of caliber. I want to talk about rifles that are coming back to Remington with a letter of complaint either from the customer or from, say, a gun shop. Okay?

A Okay.

Q With that in mind, can you remember receiving

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one or more Remington Model 700's back from a customer and performing what is known as a trick test on it?

A. Trick test?

Q. Okay. Let's start with that. Have you ever heard of the trick test?

A. I have heard of the trick test.

Q. What is your understanding of what that is?

A. A bench test, which means a test which does not involve the use of live ammunition, to determine whether or not there is a fault in the firing mechanism.

Q. Now, when you say "bench," all that indicates is no ammunition, right?

A. A nongallery-type test.

Q. Now, do you know the procedure followed in performing the trick test?

A. Specifically, I am not sure if I know exactly the way it is supposed to be done.

Q. If through some trick of fate you ended up back in Hardy's job temporarily and were asked to do a trick test, is there some book or manual or some written information you could refer to to help you?

A. I doubt it. I have never seen -- I am not

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aware of any reference to that in black and white.

Q. So you would have to ask somebody?

A. I would.

Q. Do you have any information about any rifle, any Remington Model 700, ever failing the trick test?

A. Failing the trick test?

Q. Let me give you a little background, first.

Let me tell you, it is our position that the trick test is this as per Mr. Hardy's testimony. The safety is put somewhere between the safe and fire position, as close to the fire position as it can be without having it slip over. The trigger is pulled, and then the safety is pushed to the fire position.

A. Okay.

Q. If the gun fails the trick test, it would discharge if there was a bullet in it. If there was no bullet in it, I guess, the trigger pulls. Okay? A gun that passes it does not go off under those circumstances. Does that refresh your recollection as to what the test is?

A. Okay. Yes. I forgot the question.

Q. Have you ever heard of a Remington 700 failing

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that test?

A. Failing? Yes, I have.

Q. Where did you hear it from?

A. This would be a rifle in house.

Q. You mean a new one?

A. Well, during stages of assembly.

Q. Okay. A new one, you are talking about?

A. Yes. I am not talking about one from the field, for example.

Q. Okay. Let's talk about one from the field.

A. Okay.

Q. Have you ever heard of one coming back to the factory with a complaint that it goes off when the safety is flipped to the fire position and the trick test is performed on it and it fails it?

A. It seems that I have heard of that happening.

MR. CHAMBERLAIN: Would you mark this?

(A Gun Examination Report was marked Plaintiffs' Exhibit 8 for identification.)

BY MR. CHAMBERLAIN:

Q. --I will hand you what has been marked as Deposition Exhibit 8 and ask you if you can, in general,

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identify that document.

A. It looks like one I did the preliminaries on.

Q. You know that it says "Checked by," and it has your name?

A. Yes. I recognize my wonderful writing.

Q. Which part of that document is your writing?

A. All of the top with the exception of the lower signatures here and down to where it says, "Complaint."

Q. Okay. The "Comments" part is not in your handwriting?

A. No.

Q. Under the word, "Test," it says, "Fails the null test." Is that your handwriting?

A. Yes, it is.

Q. Does that indicate you performed that particular test on that rifle?

A. I must have if I filled that in.

Q. Under, "Components condition" it says, "Trigger adjusting screw seals broken."

A. Yes.

Q. Again, is that your writing?

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A Yes.

Q In the normal course of events, would you actually have checked the tolerances and that sort of thing having noted the adjusting seals were broken?

A No.

Q Are you familiar with the Remington specifications for pounds of trigger pull on that gun?

A Yes.

Q What is normal?

A I recollect three to five pounds.

Q I think you are correct.

A I hope so.

Q Under "Comments," it says, "Trigger pull three," and something else.

A Three-and-a-half, I believe it says.

Q Okay. Three and some fraction of a pound, right?

A Yes.

Q Based on that, would it be fair to assume that the trigger pull was within specs?

A Yes.

Q Assuming that information is correct?

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A Yes.

Q How about sear lift? Do you know what is in specs for sear lift on the 700?

A Six or seven thousandths is minimal, I believe.

MR. HUEGLI: May I interrupt here for a minute? I would like to mention to you that I did promise the management at Remington when we produced these employees voluntarily that they would testify during their working hours at Remington.

You are finished at four-thirty?

THE WITNESS: Yes.

MR. HUEGLI: Mr. Joy will be able to come back first thing in the morning and we can continue then. That is a promise that I made so that they would not get involved in any overtime situations. We can just continue in the morning.

(A discussion was held off the record.)

(Whereupon, the proceedings were adjourned until 8:30 a.m. on August 17th.)

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August 17, 1982

MORNING SESSION

(Whereupon, the proceedings resumed at 8:30 a.m. on August 17, 1982, as follows:)

ROBERT L. JOY, having been previously duly sworn, testified further under his oath as follows:

BY MR. CHAMBERLAIN:

Q Mr. Joy, you are still under oath.

A Yes.

Q When we stopped yesterday, Mr. Joy, I was handing you Exhibit 8, which is there before you.

A Yes.

Q I think you identified that as a Gun Examination Report that you prepared in part. Is that accurate?

A Right.

Q Your handwriting is the part that looks like a craftsman.

A Thank you. Yes.

Q Not the hen scratches at the bottom under "Comments?"

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A That is correct.

Q And you signed it in the column which is entitled, "Checked by?"

A That is right.

Q But you didn't put any of those approvals in below it, did you?

A No.

Q Can you identify those initials?

A The first one right under my name, that would be G.J. Hill, my supervisor.

Q Jerry Hill?

A Yes. That one I am sure of.

Q How about the second one? Does that do anything for you?

A I don't really recognize that one.

Q Could that be Jerry Burns? It looks like something R something B.

A No, because his initials would be J.J.

MR. CHAMBERLAIN: Jim, do you have a list of who all these people are?

THE WITNESS: I should know who that is.

MR. HUEGLI: No, I don't. Mr. Hill or

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Mr. Stekl could tell you. I have a feeling that every once in awhile somebody rotates in and out of the committee.

BY MR. CHAMBERLAIN:

Q How about the third set of initials?

A I think that is P.J. for Phil Johnson.

Q Now, what is your understanding of what these approvals are?

A Well, the approvals are the members of the committee who have actually examined this rifle from a functioning standpoint in connection with whatever the complaint was and has made the determination down below here under "Comments." The approvals are an enforcement of whatever the bottom statement is.

Q Literal for the bottom lines as far as they are concerned?

A Right.

Q Okay. What is the committee? Do you know what its name is?

A They call the committee the Return Gun Investigation Committee.

Q Was it your practice when receiving a Model 700

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that came back with a complaint that the gun had fired when the safety was moved to the fire position to, as a matter of course, perform a trick test on that gun?

A I have done very few 700's. But I think just out of my own curiosity, because I would normally read the correspondence if it was available with the firearm and if there was an allegation that there was a problem, I would do it the same way a customer would do it, just simply check the functioning of the safety.

Q So on Exhibit 8 under the word "Test" where you put, "Fails null trick test," is that something you would have done before that gun went to the committee?

A On this particular one, yes.

Q Above that where you checked the heading, the breech opening, the recoil shoulder and the chamber, on two of those lines you put the word, "O.K." On two other lines you put little --

A Did not check is what I meant by that.

Q That little line means did not check?

A Right.

Q When you receive a gun and before you turn it over to the committee, does that checking that you

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do and that you record on the Gun Examination Report, does that require you to dismantle the gun in any way?

A No.

Q You don't have to take the stock off?

A No.

Q How do you determine the trigger adjusting seals are broken?

A Well, this particular one, I must have taken the stock off. Sometimes it's just a matter of convenience because when these guns come to us, they are in a box much shorter than the one you have there. The box is approximately three feet long, and the barrel hangs out the end of the box. It is a rather awkward situation.

Q That is how they are shipped?

A No. That is how they are sent from the arms service department where they are received from the customer up to us. They put them in these boxes here in the plant. Often, what I know Marshall does, just as a matter of convenience, the stock is removed but the action is not disassembled in any way. I am sure in this case that is what I must have done, because you

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can put the whole gun in the box, put the cover on it, and there is nothing hanging out.

Q To remove the stock, all you do is remove these two screws?

A Right.

Q In front and behind the trigger?

A Correct.

Q Once you do that, you would be able to see all adjusting screws?

A Yes. I am used to thinking of taking the stock off a gun or off a rifle as not even being a disassembling procedure. It really has nothing to do with the action itself.

Q All right. Now, this Exhibit 8, you noted that the trigger adjusting seals had been broken, right?

A Yes.

Q And subsequently, it appears that they tested the trigger pull and found it was three and a fraction pounds, which I think you testified yesterday was within specs?

A Yes.

Q And then they measured the sear lift. Assuming

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that number is 0095 -- rather .0095, do you know if that sear lift is within Remington's specifications?

A That would be...

Q That is within specifications, all right.

For my own education, why don't you show me here on page 11 of Exhibit 4 what dimensions they are measuring?

A That would be this clearance right here.

Q That is the distance between the sear safety cam and the trigger connector?

A That is right.

Q Is that a field rifle or a target rifle?

A It would be considered a field grade. Our target rifles are all specially built. This has a heavy-type barrel on it, but this is just a standard barrel, field grade.

Q Why don't you read the first sentence in the right-hand column of page 11 in Exhibit 4, and I will ask you a question. Read it to yourself.

A Okay.

Q Okay. Now, it says that the clearance should be between fifteen thousandths and twenty thousandths of an inch.

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A That is an engagement they are talking about.

Q What dimension is that?

A That is this dimension right here.

Q In other words, how much the corner of the sear safety cam overlaps the trigger connector?

A Overlaps, that is right.

Q Okay. And then on the same page in the first column, one, two, three, four, five paragraphs, it says, "Check clearance between trigger and trigger connector, .010 max, slip fit." Is that it, or are we talking about something else again?

A That is it right there.

Q Look at that exhibit and tell me, if you can find a place that tells you, what the sear lift should be, somewhere in that document.

A I don't see anything.

Q Okay. Have you had occasion in the last twenty-four hours to check some documents that would tell you what the sear lift should be on the Remington 700?

A Within the last twenty-four hours? No.

Q When was the last time you would have checked or looked at something that told you that?

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A Within a couple of months.

Q Okay. Do you remember what the spec is?

A The sear lift spec should be six thousandths.

Q How does that come out into a fraction, .006?

A .006, yea.

Q Should it be equal to that, more than that or no less than that?

A It can't be no less than that. It could be six.

Q Therefore, a sear lift of nine-and-one-half thousandths, as reflected on Exhibit 8, would be within specs?

A Should be.

Q When you adjust the trigger adjusting screws, what things are you adjusting? What can you adjust with those screws?

A You have three adjustments you can make. The first one -- and I am not going to give you these in the order of importance, just in random order. The first would be the trigger weight. The amount of trigger pull can be adjusted.

Q That is, the adjustment would change the number

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of pounds of trigger pull it would take to fire the arm?

A Right.

Q Okay. And the second one?

A Next would be the trigger engagement. That would be that fifteen to twenty thousandths dimension we looked at.

Q In Exhibit 8, there was no reference to what that was on this particular gun, true?

A I don't see any reference to it.

Q Okay. What is the third one?

A The third one would be trigger overdraw.

Q That is the distance the trigger can travel after the firing pin falls?

A Right. The sear will fall after the firing pin has gone forward. The overdraw is the amount that the trigger can be pulled beyond the sear in the down position.

Q In your experience, can the adjustment of any of those three screws increase the likelihood of a rifle failing the trick test?

A The engagement adjustment would be the one that would most likely cause you a problem.

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Q Okay. In other words, if you get the engagement someplace below fifteen thousandths of an inch, you increase the likelihood of --

A -- problems.

Q -- problems, okay. Or the cam falling when the safety is put in the fire position?

A You increase the likelihood of a lot of different things happening with that engagement decreased.

Q Can you tell, looking at Exhibit 8, which if any screws on this particular rifle had been adjusted?

A The statement made there is that the seals are broken. Being that I didn't spell out the adjustment or the engagement screw seal or the trigger weight screw seal, they must have all been broken on this particular one.

Q Based on the information at the bottom under "Comments," we know that if the trigger weight pull was adjusted that it was not adjusted out of specs, right?

A Right. That is right according to the trigger pull that is given.

Q And the sear lift, is that not adjusted by one

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of those screws?

A No.

Q How do you adjust that?

A You don't.

Q It is a function of the outside diameter?

A The dimensioning of the components that go into the trigger assembly itself.

Q So if you had a bigger cam, it would have a higher sear lift?

A That is right. The only way I can adjust that dimension would be with a file. And that is not done.

Q Do you have any information which would indicate either in your examination of the gun or from your review of the document in front of you or from discussions with anybody whether or not this particular rifle that is described in Exhibit 8 was caused to fail the trick test because of some adjustment to these adjusting screws?

MR. HUEGLI: Is the question, does he know or does he have any information? Is it either way?

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MR. CHAMBERLAIN: Either.

THE WITNESS: On this particular report

in front of me?

BY MR. CHAMBERLAIN:

Q Right.

A I don't know.

Q Okay. Did you talk to anybody about this deposition or about this lawsuit since we met yesterday?

A Only that I had been down here.

Q Who did you talk to?

A I ran into Jerry Hill, my boss, on the way out last night.

Q Did you talk about the substance of it?

A No.

Q Did you talk to Mr. Hardy at all?

A No.

Q Either last night --

A I ran into Mr. Hardy before I came down here yesterday afternoon.

Q Did you talk to him about it then?

A I simply asked him how he did.

Q What did he say?

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A He thought okay. I don't think he likes this kind of activity, but --

Q I can't imagine why not. It is a lot of fun. Either last night or at any other time in preparation for this deposition, did you review any documents, any documents?

A No. I wish I knew what we were going to talk about. Maybe I could have been a little better prepared.

Q Do you know the origin of the name of the trick test?

A The origin of the name? No.

Q Why they use the word "trick"?

A (No response.)

Q How about the word "null"? Most of the references I have seen here call it the "trick test," and your reference is --

A I am more familiar with the word "null." You threw me off when you said "trick." "Null" is the word I would normally use.

Q What is "null"?

A That is when you are operating the safety off

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the forward fire position, and you have a rear safe position. The null is the no man's land that occurs between the two where, if you manipulate the safety properly, you can get it to hang up between the two. You would never be able to do it just by pushing it off or pulling it on. You have to manipulate it and try to get it to balance.

Q Is that true if you took a brand new 700 off the line manufactured sometime in, say, 1976 or '77? Would it be normal to find that the trigger had a null position?

A The safety?

Q Would it be normal to find that the safety had a null position?

A Sure.

Q Have you ever reviewed any designs or discussed with anybody a design for the safety that would cause it to have a safe position and a fire position but a design such that it could not hang up in a null position?

A No.

Q Okay. I have got this cocked, and I want you to tell me what I am doing. More importantly, I want

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you to tell me what is happening in the gun as I do this. It is cocked. It is on fire. I am pulling it back and holding it about a third of the way back. Did you hear that noise?

A Yes.

Q What happened there?

A The trigger connector --

Q Show me on Exhibit 4, if you can.

A The trigger connector here, which is this horseshoe-shaped part -- you pulled the trigger. It went in this direction here.

Q To your left?

A Yes. And it popped out from underneath the corner of the sear.

Q So at this point, the trigger connector is actually above that little corner of the sear?

A That is right.

Q And when I let go of the safety, what will happen?

A When you let go of the safety, since the firing pin is supported rearward by this surface on the sear safety cam, if there is nothing underneath the sear

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safety cam at this point, the sear will fall and the firing pin will go forward.

Q The sear safety cam is spring loaded?

A Yes.

Q Okay. You are right. Is that normal?

A You were holding the safety in a position forward of the null, correct? You mean, if you had let go of the safety, would the safety have stayed where it was?

Q No. It would have gone to fire. That is forward of the null.

A In other words, the safety was not fully engaged. That is normal, yes.

Q I may have already asked you some of these questions, and forgive me if I repeat myself. Have you had anything to do with the preparation, the writing or printing of the owner's manual for the Remington rifles?

A No.

Q How about for the field service manuals?

A No.

Q Field service manuals, incidentally, are

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something that go to whom? Do you know?

A I imagine it goes to our gunsmiths out in the field. There are copies of it at various places in the plant.

Q It is not something that is given to an owner when he buys a gun?

A No.

MR. CHAMBERLAIN: Let's mark this.

(A Gun Examination Report was marked Plaintiffs' Exhibit 9 for identification.)

BY MR. CHAMBERLAIN:

Q I will hand you what has been marked as Exhibit 9 and ask you if you can identify that.

A Yes.

Q What is it?

A It's another Gun Examination Report that I did the preliminaries on.

Q And is it a Gun Examination Report on the Model 700 BDL?

A That is right.

Q And the customer's complaint was that upon moving the safety to the off position, the gun discharged?

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A That is right.

Q In common parlance, does the off position mean off safe?

A To the fire position.

Q Under "Test," you wrote, "Bench okay." What does that mean?

A That means that I couldn't duplicate the malfunction.

Q That doesn't indicate the trick test, necessarily, does it?

A No.

Q That means you would have done what the customer complained about, moving the safety from safe to fire?

A (No response.)

Q Is that a yes?

A Yes. I am sorry.

Q Can you identify the initials on the approvals on this Gun Examination Report?

A Some of them.

Q Okay. Why don't you go through and give me the ones you can recognize.

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A Under my name, again, that is G.J. Hill. The one below that may be Phil Johnson again. It looks like P.G.J. And the one below that that is inserted between the lines is the same one I didn't recognize on the other sheet.

Q All right.

A The one below that looks like J.B.

Q Do you know who that would be?

A Probably John Brooks.

Q Not Jerry Burns?

A It may be. It may be.

Q How about below that?

A That is an easy one. That is Bill Warren, W.A.W.

MR. HUEGLI: Once again, if you want us to go and locate all of these people that come and go in these reports, we will be glad to do so. Just give me a half hour's notice so I can bring them in.

MR. CHAMBERLAIN: Okay.

They are all local?

MR. HUEGLI: Are they all here at the

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plant, most of them?

THE WITNESS: Yes.

BY MR. CHAMBERLAIN:

Q Do you remember anything about this particular rifle?

A No.

Q Is this Receiving and Estimate Report something you would get with the rifle?

A Normally, you would get that, yes.

Q On this particular Receiving and Estimate Report -- and I will tell you this came from your company -- it says, under "Customer complaint: Gun was in fire." And then under, "Main fault," it says, "This gun was damaged beyond repair." Does that refresh your recollection about this incident?

A No. I am sorry. It doesn't.

MR. CHAMBERLAIN: Off the record for a second.

(A discussion was held off the record.)

BY MR. CHAMBERLAIN:

Q Do you, in your experience as a -- what would you call yourself in your taking over Hardy's job,

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Q Okay. Have you made a determination as to why that rifle failed that test?

A This one on Exhibit 8, here?

Q Right.

A It wouldn't have been up to me to have made that determination.

Q Okay. But did you?

A I don't recall at this point.

Q Do you have any information from any source either from your own testing or inspection of guns or from information that someone at Remington has given you as to various conditions that have caused Remington 700's to fail the null trick test?

A This would be information in any form at all?

Q Right, written, oral, hearsay, scuttlebutt.

A I can't recall written information. As far as oral information, the condition could be caused by that clearance we looked at in this document here.

Q The sear?

A The sear lift.

Q The sear lift, okay.

A Being insufficient.

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Q Okay. That is one cause that you heard about. Have you heard about any other causes?

A It seems that I remember -- again, this is -- I am not sure how well my mind is functioning. But I recall an instance where this condition was created by someone having doctored a trigger. I can't even tell you if that was outside the plant or inside the plant. The end result was the clearance between the top of the connector and bottom of the sear safety cam was decreased.

Q Okay. Now, let's turn our attention away from the trick test. Have you ever heard that a customer complained that the gun fired when the safety was just flipped to the fire position with no information of whether or not it was coming from the null position or the fire position?

A I think that is what we are saying here.

Q Okay. Have you ever heard of any information from any source, whether you read it or heard it, that any Remington rifle had actually fired when the safety was flipped from safe to fire? I am trying to distinguish between that or those set of facts and the trick test,

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if you follow me.

MR. HUEGLI: Could you repeat that question, Peter?

MR. CHAMBERLAIN: I am not sure I can.

MR. HUEGLI: Because we have forty-nine identical reports where people said that has happened. Are you asking if he has heard something outside of those reports?

MR. CHAMBERLAIN: Let me explain.

BY MR. CHAMBERLAIN:

Q In these forty-eight or forty-nine reports that we have, typically, the customer's complaint is, "I flipped the safety to fire, and the gun went off." Okay?

A Yes.

Q Typically, not in every instance but frequently, Remington performs the trick test on the gun. Usually, they say it passes it. What I am wondering is if there is any difference between the situation where you say a customer has the gun in the null position, pulls the trigger and flips it to fire versus the situation where the customer has the gun on safe and flips it to fire.

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A The null-type test would be a more critical test than moving the safety from the full safe position. You should have a safer situation, or it is less likely that you would have a problem in moving the safe from the full safe position after the trigger is pulled.

Q So when Remington gets a complaint that says, "I flipped the safety to fire. The gun went off," it is assuming that the safety was in the null position before the user flipped it to fire?

A I don't think that that assumption is made. Jerry Hill could better than I answer that question, because he is on the committee.

I have never been in on one of those committee investigations. I believe the way they would handle any complaints like this is whether or not the customer makes any statement at all about where he is pushing the safety from, it is assumed that the safety is in the full on position. There is no reason he would have it in the middle, and there is no way it would stay there unless you hold it there. Since this null test is a more critical test, the committee, I am sure, uses that. If the rifle fails the null-type test, it is considered

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to be, you know, a bad test.

Q Is it not typical of the 700 that you can push the safety to the null position and get it to stop with your thumb?

A As far as I recall, I don't think normally it ~~with your thumb~~ like that.

Q Like this one is, you mean?

A Right.

Q So in your experience, it is abnormal for the gun to be able to hang up in the middle like this?

A As best I recall.

Q Okay. Have you ever heard it said or seen it written that the 700 can fail the trick test when solidified solvent or solidified lubricant is present in the trigger mechanism?

A I believe I have.

Q Do you know where you heard that?

No.

Have you ever heard it said that the safety lever can be caused to hang up if the wood on the stock becomes damp and swells up?

A No.

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Q Have you ever heard it said that the safety lever can be caused to hang up if the safety lever is bent?

A Yes.

Q Where did you hear that?

A I think I heard that back when I was first being trained on some of these models. This would be maybe 1975, or somewhere in that area.

Q Is there an in-house training program?

A I was broken in on some of these models by the gentleman who would have been my predecessor. He is now -- well, he is deceased now.

MR. CHAMBERLAIN: Okay. I am going to want to take some of the committee member's depositions. Do you have one lined up in the next half hour, or so?

MR. HUEGLI: Snedeker, the design fellow, is next.

MR. SPERLING: Snedeker is Quality Control.

MR. CHAMBERLAIN: This can be off the record.

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(A discussion was held off the record.)

BY MR. CHAMBERLAIN:

Q Mr. Joy, have you ever heard or found that the Model 100 that is in such a condition that it is failing the trigger test can fail it one time and pass it the next time such that it is a transient-type condition?

A Yes.

MR. HUEGLI: Do you mean under the same conditions, without having been cleaned or repaired?

BY MR. CHAMBERLAIN:

Q Like, if you picked it up one day, you tried it, and it passed the test. You picked it up the next day, and it failed the test.

A Yes.

Q Do you have any information as to what would cause that condition to be transient?

A It is likely a situation where you are on the ragged edge of the tolerancing.

Q Okay. In other words, when you push the safety into the null position, if you just barely get it into the null position, there may be enough overlap

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on the trigger connector and the sear safety can to hold it up?

A Right.

Q But if you go a little further and pull the trigger, it may be just a little less clearance, and it would slip down?

A That is right. That is possible.

Q And then in that situation, when you flipped it to fire, it would go off?

A In which situation?

Q The latter of the two.

A Right.

Q In the former of the two, it would not go off?

A Right.

Q Are you familiar with the, I guess it would be, the National Rifle Association's Safety Rules and Regulations?

A Vaguely.

Q Are they the Bible, as far as gun safety is concerned?

MR. HUEGLI: I think I would object to any foundation, that this man has any knowledge

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or experience in that area. We are talking about an hourly mechanical engineer in the Remington firearms plant.

Okay. Go ahead and answer the question.

MR. CHAMBERLAIN: That objection is reserved by the usual stipulations, anyway.

MR. HUEGLI: I guess it is.

MR. CHAMBERLAIN: Sure.

Let me approach it a different way.

BY MR. CHAMBERLAIN:

Q Do you own any guns yourself?

A Yes.

Q Are you a hunter?

A I have been.

Q Have you read the National Rifle Association's safety rules?

A Probably. I couldn't quote any of them to you. It has been long enough.

Q In your experience or given your understanding of those rules, whatever that understanding may be, would it be considered a good or safe practice to, after putting a gun in the safe position, to, say, point it in

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the air or point it in the ground and pull the trigger to verify that it is on safe?

MR. HUEGLI: Loaded?

THE WITNESS: Pull the trigger to verify it is on safe loaded?

BY MR. CHAMBERLAIN:

Q Right.

A I wouldn't do it.

Q Have you ever heard of any tests being done on Model 700's returned by customers where the complaint is that the gun fires when the safety is put into the fire position, tests that they conducted at low temperatures, like zero degrees Fahrenheit?

A A low temperature trick test, is that what you are referring to?

Q Right.

A I am not aware of any.

Q How about just a low temperature flipping of the safety back and forth with the gun cocked?

A I am not aware of any.

Q Do you know if a trick test is performed on new Model 700's when they are manufactured?

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A The null test, we are talking about now?

Q Right.

A I believe there are times when either in our audit procedures -- and I can't tell you if this is something that is written into our process or not. This is just off the top of my head, because I am mainly involved in another model. I know that our quality audit people staff are aware of the null test. I believe in their normal auditing procedure -- and I think this is something Bill Warren could better answer, because he is the foreman of the quality audit department. But I do think that is something that in the normal audit would be checked.

Q What model are you primarily involved in?

A The 7400, 7600 models.

Q Are those shotguns?

A Yes.

Q Bolt action?

A No. The 7400 is an automatic loader. The 7600 is a pump.

MR. HUEGLI: Do you know of your own personal knowledge that in the normal manufac-

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turing process of 700's that a trick test is performed on all rifles in the audit?

THE WITNESS: Not for certain.

MR. HUEGLI: I think the question of Mr. Chamberlain was do you know that Remington performs a trick test on 700's in their normal manufacturing process. Do you know, or are you just saying maybe or I guess, or what?

THE WITNESS: Well, I guess it is done by quality audit. That is why I think that should be deferred to Bill Warren.

MR. CHAMBERLAIN: I am not going to hold him to it, anyway.

BY MR. CHAMBERLAIN:

Q Are you familiar with any recalls that have been done on the Model 700?

A 700, no.

MR. CHAMBERLAIN: Okay. I have nothing further.

MR. HUEGLI: I don't have anything further.

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THE FOLLOWING ARE CORRECTIONS TO THE TRANSCRIPT OF MY DEPOSITION REGARDING SEE & REMINGTON TAKEN AUGUST 16 & 17, 1982

P. 16 LINE 20 SHOULD READ "SPORTING ARMS--"
P. 59 LINE 17 ANSWER SHOULD READ "NO"

Robert J. Jay 10/15/82

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

I, ROBERT L. JOY, being duly sworn, hereby state that I have read the above deposition of my testimony in the above-entitled action taken on August 16 and 17, 1982, before LORRAINE SMITH, a Shorthand Reporter and Notary Public, at Remington Arms, Ilion, New York, and that the same is true and correct.

Robert L. Joy

Sworn to before me this 15th day of October, 1982.

Margaret D. Hill

MARGARET D. HILL #4037096
NOTARY PUBLIC, STATE OF NEW YORK
REGISTERED IN HERKIMER COUNTY
MY COMMISSION EXPIRES MARCH 30, 1984.

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 9, 1982

Lorraine Smith