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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

TERI SEE and DARREL SEE,)
wife and husband,)
)
Plaintiffs,)
)
vs.)
)
REMINGTON ARMS COMPANY, INC.,)
a Delaware corporation,)
)
Defendant.)

Civil No. 81-886

TELEPHONE DEPOSITION OF TONY VARNUM
Taken in Behalf of Plaintiffs

BE IT REMEMBERED that, pursuant to court order and oral stipulation hereinafter set forth, the telephone deposition of TONY VARNUM, was taken in behalf of the Plaintiffs, before Theresa Gach, a Notary Public for Oregon, on Wednesday, August 4, 1982, beginning at 4:02 p.m. in the law offices of Bodyfelt, Mount, Stroup & Chamberlain, 214 Mohawk Building, Portland, Oregon.

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APPEARANCES :

Mr. Peter R. Chamberlain and Ms. Kathy Janssen, of attorneys,
appearing in behalf of the Plaintiffs;
Mr. James D. Huegli, of attorneys, appearing in behalf
of the Defendant.

COMPUTER ASSISTED TRANSCRIPTION

-BY-

GEESMAN & ASSOCIATES
310 S. W. 4TH, Suite 512
Portland, Oregon 97204
(503) 222-3222

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STIPULATION

(At said time and place the following stipulation was entered into between the attorneys present in behalf of the respective parties:)

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that the deposition of TONY VARNUM may be taken in behalf of the Plaintiffs, on Wednesday, August 4, 1982, at the time and place set forth in the caption hereof, before Theresa Gach, a Notary Public for Oregon, and in stenotype by the said Theresa Gach.

It is further stipulated that the deposition when fully transcribed, may be used in the trial of the above-entitled action as by the law and the Rules of Civil Procedure for District Courts of the United States provided; that all questions as to the notice of the time and place of taking the same are waived; and that all objections as to the form of questions are waived unless objected to at the time the questions are asked, but that all objections as to materiality, relevancy and competency of the questions and answers are reserved to the parties until the time of trial.

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TONY VARNUM

was thereupon produced as a witness in behalf of the
Plaintiffs and, having been first duly sworn on oath, was
examined and testified as follows:

EXAMINATION

(BY MR. CHAMBERLAIN):

Q. Mr. Varnum, could you please state and spell your first
and last name for the record.

A. Tony, T-o-n-y, Varnum, V-a-r-n-u-m.

Q. What's your residence address?

A. Route 2, Box 2223, Supply, North Carolina, zip code
28462.

Q. And you permanently reside in North Carolina?

A. Right.

Q. Mr. Varnum, we've met on the phone. My name is Peter
Chamberlain, and I represent Mr. and Mrs. See in this
lawsuit which they brought against Remington Arms
Company. This is our chance to ask you some questions
under oath about a Remington Arm that I understand you
own. Okay?

A. Okay.

1 Q. When I get done asking you questions, Mr. Huegli will
2 have a chance to ask you a few question. I understand
3 that you own a Remington rifle.
4 A. Okay. The one I shot I don't own anymore. I own
5 several Remington products.
6 Q. Let's talk about the one you had a problem with. Is it
7 a 700?
8 A. Right.
9 Q. Do you remember about when you purchased that?
10 A. Yes, sir.
11 Q. When was that?
12 A. February 28, 1978.
13 Q. Do you remember that because you have it written down?
14 A. I went back to where I bought it and got that.
15 Q. Where did you buy it?
16 A. I bought it at Best Store in Wilmington.
17 Q. B-e-s-t Store?
18 A. Right, Best Store.
19 Q. In Wilmington, North Carolina?
20 A. Right.
21 Q. Was that new when you purchased it?
22 A. Yes, sir.
23 Q. Do you have any documents or anything that would
24 indicate what the serial number was on that gun?
25 A. A6482019.

1 Q. When did you get rid of the gun?
2 A. Oh, probably a couple of years after I bought it. I
3 don't know right exactly the date.
4 Q. During the time that you owned it, did you maintain it?
5 A. Yes, sir.
6 Q. How did you maintain it?
7 A. Just cleaning it. I didn't take it apart.
8 Q. How would you describe the condition of the gun in
9 general? Was it in pretty good condition?
10 A. In very good condition.
11 Q. Did you do anything to alter the gun?
12 A. No, sir.
13 Q. Now, I understand you did have a problem with it, is
14 that right?
15 A. Right.
16 Q. Could you describe that for us?
17 A. Okay. I went hunting, and I got back to the car, I
18 laid the rifle in the seat beside me, took the safety
19 off, and when I took the safety off, the gun fired.
20 Q. When you did that, did you have any part of your hand
21 or any part of body near the trigger on the rifle?
22 A. No, sir, just my thumb is all that was touching the
23 gun.
24 Q. As I understand it, you were moving the safety from the
25 on safe position to the fire position?

- 1 A. Right.
- 2 Q. Is that necessary to unload the gun?
- 3 A. It was on that model, yes, sir.
- 4 Q. What did you do then after that happened?
- 5 A. Shoot, for a while it scared me. When I got back, I
- 6 sent the rifle back to Remington and they fixed it for
- 7 me.
- 8 Q. And they returned it?
- 9 A. And returned it.
- 10 Q. Do you remember, did Remington write you any letters
- 11 about the rifle?
- 12 A. They did, but I can't find them. And I'm not sure, but
- 13 I think they either said it was a faulty safety
- 14 mechanism or a faulty fire mechanism, one of the two.
- 15 Q. That's all the questions I have for you. Now Mr.
- 16 Heugli will ask you a few, I think.

17

18 EXAMINATION

19

20 (BY MR. HUEGLI):

- 21 Q. It's only happened twice?
- 22 A. It only happened that one time for me.
- 23 Q. Only one time it happened?
- 24 A. When I took the safety off, it shot.
- 25 Q. Did it shoot into anything?

1 A. It shot right into my car.

2 Q. How many times before that do you suppose you flipped
3 the safety on and off?

4 A. I usually just put it on fire, unloaded it and put it
5 back on safety and that was it.

6 Q. Well, you had the gun a year or so before that
7 happened?

8 A. Right.

9 Q. And do you suppose you flipped the safety back and
10 forth maybe 50 times altogether?

11 MR. CHAMBERLAIN: Object to the form,
12 leading.

13 (BY MR. HUEGLI):

14 Q. How many times do you suppose you flipped the safety
15 back and forth before that accident?

16 A. I used to shoot it -- I go out and shoot a lot. Every
17 time I shoot, I have to move the safety.

18 Q. Would you estimate more than 100 or less than 100 that
19 the safety would have been moved?

20 A. I would say around 100 times.

21 Q. And you're satisfied it only happened one time?

22 A. Yes, sir.

23 Q. And you're sure that Remington wrote you a letter?

24 A. Yes, I'm positive they wrote a letter back.

25 Q. Thank you very much, Mr. Varnum.

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EXAMINATION

(BY MR. CHAMBERLAIN):

Q. Mr. Varnum, under the federal rules of civil procedure, you now have the right to read the deposition transcript when it's prepared and make any corrections that may be necessary if the court reporter has made any mistakes and to then sign it. If you prefer, you can waive that right. The court reporters are very accurate and there's usually no corrections necessary, but it's up to you, you can either read it and sign it or waive it. Which would you like to do?

A. I guess waive it, I guess.

Q. Thank you very much.

(Deposition concluded at 4:10 p.m.)

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STATE OF OREGON)
) ss
COUNTY OF MULTNOMAH)

I, the undersigned, Theresa Gach, a Notary Public for Oregon, do hereby certify that TONY VARNUM personally appeared before me at the time and place mentioned in the caption of the foregoing deposition; that Mr. Peter Chamberlain and Ms. Kathy Janssen appeared in behalf of the Plaintiffs, and that Mr. James Huegli appeared in behalf of the defendant, and the said witness being by me first duly sworn to testify the truth, the whole truth and nothing but the truth, in answer to oral interrogatories, testified as in the foregoing annexed deposition, Pages 1 to 9, both inclusive set forth.

I further certify that all interrogatories propounded to said witness, together with the answers of said witness thereto, and all objections and other oral proceedings occurring upon the taking of said deposition, were then and there taken down by me in stenotype and thereafter reduced to typewriting under my direction, and that the foregoing annexed transcript, Pages 1 to 9, both inclusive, constitutes a full, true and accurate transcript of said deposition and proceedings, so taken by me in stenotype on said date, as aforesaid, and of the whole thereof.

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I further certify that I am not a relative or employee or attorney or counsel for any of the parties, or a relative or employee of such attorney or counsel, or financially interested in said cause.

IN WITNESS THEREOF, I have hereunto set my hand and notarial seal this 16th day of September, 1982.

Theresa Yach
Notary Public for Oregon
My commission expires: 11/01/83