

LEWY v. REMINGTON
Trial Testimony of JOHN P. LINDE
June 19, 1986

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI

EVELYN LEWY AND JACK LEWY

Plaintiffs,

vs

REMINGTON ARMS COMPANY, INC.,

AND K-MART CORPORATION,

Defendants

NO. 83-3172-CV-S-2

Springfield, MO

June 19, 1986

PARTIAL TRANSCRIPT OF TRIAL BEFORE THE HONORABLE WILLIAM R.
COLLINSON AND A JURY

APPEARANCES:

FOR THE PLAINTIFF: WILLIAM H. MCDONALD ESQ.

RICHARD C. MILLER ESQ.

FOR THE DEFENDANTS: JACK HEADLEY. ESQ.

JOHN SHAW, ESQ.

RANDY E. LOOMER, ESQ.

Court Recorder: Sally Kollmeyer

Transcriber: Deanna J. Miller

Linde - Direct

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COURT IN SESSION AT 9:30 A.M.

2 THE COURT: Let's proceed.

3 JOHN LINDE, DEFENDANT'S WITNESS, PREVIOUSLY SWORN

4 DIRECT EXAMINATION CONTINUED

5 BY MR. SHAW:

6 Q. All right. Mr. Linde, to get back where we were when we
7 left off yesterday afternoon, we had not yet gotten that Model
8 700 out of the factory yet. It had been through final assem-
9 bly where you told us that it had been FSR checked three
10 times, it had been trick tested three times and it had been
11 checked thoroughly for trigger retraction, it had been through
12 the gallery test where it had been checked for FSR three
13 times, it had been checked for trick three times, and it had
been checked for trigger retraction among other things. Is
that correct?

16 A. Yes, that's right.

17 Q. All right. Now I believe we would go to final inspec-
tion. Is that right?

A. Yes.

20 Q. And could you describe for the jury and the Court what
happens in final inspection here in August of '75 for a Model
22 700 rifle?

23 A .Okay, the rifle would come out of the gallery, it's
24 checked for live ammunition by both the guy who tested it in
25 the gallery and then before it goes through the gallery it's

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3
2 checked again by a different individual before it comes out
into the manufacturing area. In the final inspection, the
3 final inspector takes the rifle and first he checks to make
4 sure that the -- like the Remington name, the logo, all the
5 things that are rolled on the barrel and the model and every-
6 thing agree to the paperwork. He goes through and he checks
7 to make sure that the -- checks to make sure that like if it's
an ADL that it is an ADL, if it's a BDL it's a BDL, if it's a
9 left hand it's a left hand, and if it's a varmint rifle it's a
10 varmint rifle, and all these things that characterize that to
11 make sure just exactly that everything meets that specifica-
12 tion for that particular rifle. He would then take the rifle
13 and start the visual examination. He takes and he checks both
14 the metal and the wood components, and what he's looking for
15 here, he's looking for dings, mars, anything that would affect
16 the visual appearance. He checks clearances between like the
17 wood and metal fits, the clearances between some of the metal
18 to metal fits to make sure that it's visually acceptable.
19 Q. Mr. Linde, one thing that I don't think we've explained
20 but I would like you to mention to the Jury -- is each par-
21 ticular bolt matched to the particular rifle?
22 A. Yes, it is. That would be one thing that he would check.
23 There's like the last two or three or four, I can't remember
24 -- digits are actually put on the bolt to match with the
25 serial number, so you know that bolt goes with that rifle.

Linde - Direct

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Q. And that bolt goes with that rifle only?

2 A. Yes.

3 Q. And you tell that by the serial numbers?

4 A. Yes.

5 Q. All right. The final inspector would take the rifle and

6 when he's looking for the -- you know, the Remington Arms

7 Company, Ilion, New York, and all the information on the side

8 and make sure it's clear and concise, he then steps back and

9 takes a look at the stamps to make sure that the rifle has the

10 Magnaflux stamp, the proof stamp, the test and target stamp,

to make sure that all those functions have been performed on

12 that rifle.

13 Q. Any final assembly stamp? Will he check for that?

14 A. Yes, didn't I say that?

15 Q. To make sure that that final assembler has signed that

16 rifle, which verifies that he's done his job and he's proud of

17 it?

18 A. Yes, he goes through all the stamps. Then he would go to

19 the function -- he would start the function of it. He would

20 check the action to make sure that the action is smooth and

everything is free, then he would take and put in the head

space gauges. He would put what we call the mid head space

gauge in, close it to make sure it closed, and this relates to

24 the proof test that I was talking about. With the mid head

space gauge we know it will accept all different cartridges

Linde - Direct

5

2 chambered for that rifle whether it's manufactured by

3 Remington, Winchester or the -- like Federal.. That's a

4 company or an industry standard. He then takes and puts in
what we call a max head space gauge just to make sure that
6 there has not been any deformation in the proof testing that

7 under pressure something hasn't given to make the head space
excessive.

Q. So you're concerned about the tolerances in here where the
cartridge goes?

A. Yes, the tolerances where the cartridge goes are very,
very close and if they tended to be stretched or if they're
12 too long for some reason, then the cartridge case can stretch

13 and rupture and you could have a possible -- have a real
problem. So that head space is very critical, so he checks the
15 head space 100% to make sure that it's within the limits. He

16 would then, after head space he would go and start going

17 through a function check. He would close the -- he'd check

18 for jar off, he would close the bolt very quickly, very

19 smartly three times, check to see if the rifle would jar off,
he would also take and put the rifle on safety -- with the jar
21 off test by the way, the rifle has to be in the fire position

22 because he's actuating the bolt handle very quickly. He would

24 put the rifle on safe and then check for the other jar off

25 test that I was talking about where he takes the back of his
hammer, puts it up against the firing pin with the wood part

Linde - Direct

6

1 against the firing pin and then taking and strike it to make

2 sure that there's good engagement

3 Q And in both of those tests he's checking then to make sure
this trigger is where it's supposed to be within the fire control.

A. He's making sure that the trigger and everything else -and
also he's making sure that the engagement between the fir-
8 ing pin and the sear is satisfactory. He would then go to the
safety checks and check the safety. The first thing he would
do is he would put the safety in the on safe position and check
the bolt lock to make sure that the bolt lock works. He would
then take and pull back with d lot of force on the
13 trigger and release the trigger making sure that the trigger
retracts.

Q And fully retracts?

16 A. And fully retracts.

17 Q Comes all the way back to where it can possibly come.

A. That's right. Checks the trigger, holds it, checks to make
sure that the rifle won't fire when it's in the full safe
20 on position, then he moves the safety to an intermediate
position, essentially halfway between safe off and safe on. He
pulls the trigger again, checks to make sure that the rifle
23 won't fire, then he releases the safety to the fire position.

24 Q Okay. Now you've described first that this final inspector
does the FSR test. Is that correct?

Linde - Direct

7

1 A. No. he does the fire safe release.

2 Q Yes.

3 A. He does it with the safety all the way on, yes.

4 Q. Okay.

5 A. And really he's checking to make sure that the safety fun-
6 ctions correctly as intended.

7 Q All right, and how many times does he do that?

8 A He goes through the complete cycle of full safe on and the
intermediate position three times.

10 Q All right. Three tests for FSR in the final inspection?

11 A. Yes.

Q. And three tests for trick in final inspection?

13 A- Yes. He would then -- the next thing he would do is he

14 would check the trigger pull and he takes it and he cocks it,

15 safe in the fire position, checks the trigger pull three times

16 and he checks to make sure that the trigger has a nice, clean,
clear break with a minimum of overtravel.

Q And what's the trigger pull that he checks for here in
final inspection?

20 Trigger pull that he checks here is three to five pounds.

21 that's the specification for the 700.

22 Q And then is he -- in essence he's finished with his job

23 and we don't need to go through all the other things, but

24 those are some of the important things you've touched on?

25 A Yes. Well, he's not finished until he -- the next thing

Linde - Direct

8 he would do is he would take and he would stamp the side of
2 the barrel with the month, the year and who he is. He would
3 sign his name on that barrel.
4 Q. So he signs his own personal name, his code on this rifle
5 also. Is that correct?
6 A. Yes, it is.
7 Q. And that's because he's proud of what he's done and he's
8 finished his job. Is that correct?
9 A. Yes. It helps with the pride in workmanship and also it's
10 assigned responsibility and accountability.
11 Q. Now of course before this rifle goes to the warehouse to
12 be ultimately shipped, it's put in a carton. Is that correct?
13 A. Yes, it is. It would be packed next and it just is right
14 next to the final inspection of the packing area.
15 Q. And is an owner's manual put in the carton with that rifle?
16 A. Yes, there is.
17 Q. All right. Let me hand you what's been marked as Plain-
18 tiff's Exhibit A-3, which the evidence shows was the owner's
19 manual which accompanied Mike Lewy's Model 700. Now what's
20 the function of that owner's manual?
21 A. The owner's manual goes with the rifle and is the informa-
22 tion on the correct functioning of the rifle.
23 Q. I'd ask you to turn to page one of that owner's manual.
24 Are you there?
25 A. Yes, I am.

Linde - Direct

9

2 Now it states there, right there on the very first page

3 "caution". Do you see that, Mr. Linde?

4 A. Yes, I do.

5 Q. Okay, and could you read that statement to the jury which

6 was in the owner's manual which accompanied Mike Lewy's rifle

7 please?

8 A. Okay.

9 Caution. While handling, carrying, loading or

10 unloading rifle, make sure that muzzle is pointed in

11 a safe direction.

12 Q Now are there instructions for unloading that rifle in

13 this owner's manual?

14 A. Yes, "To unload".

Q Please read it.

A. To unload hold rifle with muzzle pointed in safe
17 direction, move safety to off safe position and raise

18 bolt handle. Move safety to on safe position and

19 pull handle rearward. Grasp cartridge, remove from

20 action. Push bolt forward until next cartridge is released
from magazine. Repeat until magazine is

22 empty. Caution. Safety will be in the fire position

23 during part of the operation so keep muzzle pointed

24 in safe direction.

25 Q. Okay. Now this is the owner's manual that accompanied the
Lewy rifle. Is that correct?

Linde - Direct

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A Yes, it is.

2 Q. All right, and it's telling the owner -- its function is

3 telling the owner how to properly use his or her Model 700.

Is that correct?

5 A. Yes.

6 Q. And it tells that owner, doesn't it, to always point that

7 rifle in a safe direction.

8 A. Yes, it does.

9 And it specifically says when you're unloading that rifle

10 to point it in a safe direction?

11 A. Yes. Do you want to get the rifle out of the factory, do

12 you want to get it to the warehouse?

13 Q. Well, we can. I'd hate to leave it there I guess.

14 THE COURT: Mr. Shaw, we all know it got out of the

15 factory and went down here to Springfield to the K-Mart store.

16 MR. SHAW: All right.

17 THE COURT: I don't see any reason to take up the

18 jury's time in explaining that process.

19 MR. SHAW: All right, Your Honor. We will move on.

20 I think the jury understands.

21 BY MR. SHAW:

22 Q. Okay, Mr. Linde, let me show you what's been marked as

23 Defendant's Exhibit #70, all right? Now is it your under-

24 standing what we've done here, you participate in this, is

25 that we you have taken the records and information regard-

Linde - Direct

11

ing the FSRs in gallery testing the numbers that were on the
2 gallery test records which plaintiffs, in their Exhibit J-1a,

3 have totaled for us and which totals have been admitted in

4 this case and therefore are based on the Remington records.

5 Is that your understanding, these totals here in this column?

6 A. Yes, it is.

7 Q. And then what -- these are broken down by year, 1974

8 through 1983. Is that correct?

9 A. 'Yes.

10 Q. And then what you've also done is you've taken the rifle

11 shipments for each year, 1974 through 1983 showing the rifles

12 that were shipped for each particular year. Is that correct?

13 A. Yes.

14 And then in this final column what you've done is you've

15 had a percentage analysis done of comparing the FSRs in

16 gallery testing to the total rifles for that year indicating
the FSR percentage in the gallery. Is that correct?

18 A. Yes.

19 MR. SHAW: Your Honor, we would offer Exhibit #70
into evidence.

21 MR. McDONALD: No objection, Your Honor. It is my

22 understanding that this is simply a mathematical computation

23 of the FSRs that are shown on Remington's records. It is not

24 a representation that that is all the FSRs there were.

25 THE COURT: That's a summary of the records.

Linde - Direct

12

MR. SHAW: Yes, Your Honor.

2 THE COURT: Of Remington. Okay, it will be admitted.

3 BY MR. SHAW:

4 Q. Mr. Linde, I might want you to stand down here so you
5 could

6 A. Would you like for me to explain it?

7 Q. Yes, would you please?

8 A. Yes. We're just dealing with the Model 700 but this would
9 be all Model 700s, and we're talking about the gallery test
10 data, so the first column we have is the year, from '74
11 through 1983. The second column is the rifle shipments, this
12 would be the rifles that were shipped from the factory for
13 each one of these years with a total of all the years in the
14 bottom. The third column would be the fire safety releases
15 that were recorded in the gallery testing for each one of the
16 years and the number and the total number. And the fourth
17 column is the fire on safe releases as a percent of ship-
18 ments. Like in 1974, if you go across, 107,000 rifles,
19 146,000, zero FSRs. of course the percent is going to be
20 zero. If you go to 1976, I'll just take some of the extremes
21 back and forth. In 1976, 109,807 rifles were produced, sent
22 to the gallery, there were 31 FSRs, there were .0282%.
23 Q. Okay, now I want to make something clear here, Mr. Linde.
24 All of these FSRs we're talking about were caught in the
25 gallery. Is that correct?

Linde - Direct

13

A. That's right.

2 Q. And they were not shipped.

3 A. No.

4 Q. All right. I think the jury understands that, I just

5 wanted to make that clear.

6 Q. But the only thing that could be possibly confusing is this
is a percent. Like just to take as an example right

8 here, well the example of the total. That is -- the number is

9 1% of 1%. It would be 100th of 100th, .01%. If it was 1% it
would be a one right here, so that is .0121% over the total of
11 those years of FSRs that were found in the gallery testing.

12 Q. So for example as you pointed out, in 1974 there were--
THE COURT: I think the jury can read, it's right
14 there in front of them.

15 MR. SHAW: If they could take a moment then, Your

16 Honor, to read it?

17 BY MR. SHAW:

18 Q. Mr. Linde, as you told us, these Model 700 rifles have

19 been tested for FSR before they get to the gallery and you've
got a -- it's apparent from here a very, very, very small per-
21 centage, around 1% of 1% total that are caught in the gallery

22 as FSRing. Is that correct?

23 A. Yes, that's right.

24 THE COURT: Well, has it already passed the FSR test

25 before it went to the gallery?

Linde - Direct

14

MR. SHAW: Yes, Your Honor. It has been tested for
2 FSR in other instances.

3 BY MR. SHAW:

4 Q. Now my question, Mr. Linde, is do you in process engineer-
5 ing then -- or what is done with these that are caught in the
6 gallery that have been checked before and then they're caught
7 in the gallery, these FSR rifles?

8 A. You could go through a scenario, if a rifle comes into the
9 gallery it goes to the proof. First it's proofed. The rifle
10 sets in the stock, there's a certain deformation as the rifle
is proofed as the load bearing surfaces on both the metal and
12 the wood pick up.

13 Q- Now what do you mean by deformation?

14 A- Well, the metal will actually set somewhat in the stock
because you've got a tremendous load coming back on the --
16 Like the recoil lug and on the bottoms where the metal is
17 bolted to the wood.

18 So what you're telling the jury is that when it's tested
19 for FSR in final assembly and final inspection, is it had
not been fired before.

21 A That's exactly right, and --

22 Q And what you're saying is--

23 A --the relationship of the parts is not the same when it
24 goes into the gallery as after it's tested in the gallery.

25 Q Okay. Continue.

Linde - Direct

15

2 A. Okay. If you send the rifle into the gallery it goes to
3 the proof. it's proofed, it goes on to test. If in the test
4 it's picked up that you have an FSR, that rifle is immediately
5 taken and put in the special area where all the safety related
6 malfunctions are placed. The operator immediately tells the
7 foreman who is a first line supervisor of the gallery about
8 the condition. The fireman then notifies the assembly
9 engineer, the assembly engineer then comes over and looks at
10 the rifle. In this case what the assembly engineer would do
11 was he would take and try to duplicate the test without any
12 ammunition. If there were some relationship that ammunition
13 might be involved he also might put it in a jack and duplicate
14 the malfunction in a jack.

15 Q. So you're testing it right there to see if you can deter-
16 mine why it FSRed.

17 A. That's right. First he wants to verify does it indeed FSR
18 or was there something in the testing or some other factor
19 that has come into play. If it does FSR then immediately he
20 verifies it, he takes it to his work area and he tears it
21 apart to determine why it FSRed.

22 Q. So he's taken -- it's taken by a process engineer and he
23 analyzes any rifle that is caught to have FSRed in the gallery?

24 A. That's correct.

25 Q. And what are some of the reasons why

A. Let me go through the model so I can

16

1 THE COURT: Let me ask you, what's a question in my
2 mind, I've seen all the reports where guys sent rifles in and
3 the committee reported they could not duplicate it, not dupli
4 cate that -- what if the supervisor can't duplicate it? You
said if he duplicate it then he'll take it and examine it.

6 Does that mean he'll just say well, my employees must have
been wrong, or what would he do?

8 THE WITNESS: No, no. what I was referring to there is if
there was any Kind of confusion on the test -- that is,
10 he would go back and if there was any kind of confusion,
whether it was a fire safety release or fired with a trick,
12 would go back and sit down with the individual who had
tested it and get the explanation of exactly what happened
to this rifle to make sure. Normally on a fire safe release,
there it is pretty much cut and dried, there is not a
question.

16 THE COURT: Proceed.

17 BY MR. SHAW:

18 All right, Mr. Linde, then these rifles are analyzed and
as you told us, you were head of process engineering. What
20 are the Kinds of things that process engineering has dis-
covered could cause an FSR in the gallery?

22 A. one of the things that can cause it, when you proof it and
23 the thing takes a set, if the rifles twist in the stock then
24 the trigger can be bound by the trigger guard. If it shifts
25 and there's some other obstruction catches it and holds the

Linde - Direct
17 trigger forward. If the rifle on the stock -- if it shifts
3 where the stock like will catch here and you don't actually
4 get the cam all the way underneath the sear and it's hanging.
5 Q. All right. Mr. Linde, the things you're describing right
6 now -- you've explained to the jury that this rifle has been
proofed so you've had a high pressure round --
A. Yes.
Q. through the rifle which could change the way the iron
or the metal is in the wood or some of those parts are in the
wood. Is that correct?
A. Yes. We also have a condition, or I can remember where we
12 get a high pressure load and it would upset the system to the
13 point where we could actually have a -- crack a connector.
14 And of course if the connector is not coming back, the rifle
will fire when the safety is released.
Q. This is a broken connector. Is that correct?
A. Yes, that's right.
Q. Now if you find these things from process engineering,
which I understand relate to this high pressure round that
you've put through it, do you make any changes to reduce the
number --
A. Oh, very --
Q. try to reduce the number of these rejects in the
gallery?
A. Yes, you do. One of the things that -- for example that

Linde - Direct

18

we had a problem with is you try to -- on the rifle you try to get the safety as close to the stock as possible to avoid it from, you know, from an obstruction standpoint. When you do that you also have a clearance between the metal the wood, the wood is always a little above the metal. In so doing we had a problem with the -- well, not really a problem but we had a condition where the safety lever would come back up on top of the wood. You can see this one here in act is probably one of the newer ones where the safety lever actually sits up higher so when you bring that safety lever back there's more clearance between the wood and the bottom of the safety lever. Or we had a condition where when the thing was shorter where it could come up and you would pull the safety back and you think it would be on the on safe position and really it wasn't, and then when the operator would push it forward it would fire in the safe position.

Q. Mr. Linde, let me -- could I have that there? Let me ask you now, you're saying that perhaps through a change you may have lengthened this lever.

A. Yes.

Q. Because you did not want to be rejecting guns in the
22 gallery if this lever would stick. Is that correct?

23 A. That's right, that's right.

24 Q. And it would be sticking as a result of this high pressure

25 round. Is that correct?

Linde - Direct

19

A. No, that would be sticking because you'd get a shifting.

3 Q. All right. If it was sticking you would catch it in the
gallery and in fact that was the purpose --

4 A. That's right.

6 Q. -- of the test, and in the gallery this was the first time
that you'd tested it after you'd put the test rounds through

8 it and the high pressure round through it. Is that correct?

A. Yes. In fact, if you notice in the testing procedure
10 there is a redundancy.' Every time you do something additional
to the rifle, you do also test again, so if you -- you test
11 before it goes in the gallery, you test after it goes through

12 the gallery testing to see if there's a change.

14 Q. And the purpose of these changes then was to reduce the
number of gallery FSRs, but you were catching these in the
15 gallery. Is that correct?

16 A. That's correct.

17 Q. All right. Now all of these tests that you've described

18 are done 100% with every Model 700. Is that correct?

20 A. That's correct. John, why don't you put the rifle back up
on the table?

21 Q. All right, I'll see if I can squeeze around here.

23 A. Open the --

24 Q. I will. Now FSR is not something that you just test the
Model 700 for in your Remington firearms. Is that correct?

25 A. That's correct. Of course every rifle or shotgun that we

Linde - Direct

20

2 make there we check for -- check the safety to make sure it's
3 functioning properly.

4 Q. So you check the Model 1100 for an FSR, say.

5 A. Oh. yes.

6 Q. Which is a shotgun.

A. That's correct.

Q. You check the 870?

9 A. Every rifle we produce, every shotgun we produce, every
10 rimfire rifle we produce we check the safety.

11 Q. So the fact that you're just -- you're checking the Model
12 700 for FSR does not suggest that you think the Model 700 is
susceptible to that. Is that correct?

14 A. That's right. In fact, if you take a look at your mal-
function data, you can check for FSRs for any rifle or shotgun
15 we produce.

16 Q. And you could find that others could be caught FSRing in
17 the gallery.

18 A. That's right.

20 Q. A shotgun or a Model 870.

A. Yes.

21 Q. Mr. Linde, there's been some discussion here not only
22 about a Model 700 but also about the Model 600. Now you're
24 familiar with both of those rifles. Is that right?

25 A. Yes, I am.

Q. Okay. What are the basic differences between a Model 600

Linde - Direct

21

1 and a Model 700?

2 A. The basic differences is the Model 600 is a carbine styled
3 rifle and a Model 700 is just your standard rifle. I think
4 that could best be illustrated if you just get to them and
5 compare them.

6 MR. SHAW: Do you have your Model 600, Mr. McDonald?

7 MR. McDONALD: Russell Hill's 600? I'm sure we do,
8 it's somewhere down there. If you'll give me just a second to
9 find-it and I'll get it for you.

10 MR. SHAW: While he -- well, let's let him find it. What's the
exhibit on this, Mr. McDonald? Okay, B-13.

12 BY MR. SHAW:

13 Q. This has previously been marked as Exhibit B-13 which is a
14 Model 600 I believe?

15 A . Yes, it is.

16 Q And here is Exhibit #39a which is a cutaway model of a
17 model 700.

18 A . All right, okay.

Q. Do you want to demonstrate some of the differences?

20 A. I think -- here, if you just take it and set it up like
21 this, the basic differences are -- you can start right from
22 the front. The sights are different, the barrels are a
different profile, the carbine is not just a cut-off rifle, this is
24 a completely different rifle.

25 You've mentioned that, the Model 600 is a carbine. Could

22

1 you explain that to the jury?

2 A. Yes. The basic difference between the carbine and the
3 rifle is that you just -- here, place them together and I'm
4 going to put the triggers together, and you can see the
5 length. the carbine is just much handier. It's, you know,
6 used for brush hunting and places where you want a short,
7 handy rifle. Take a look at the comparison. As you step
8 through it the rifle --like I said, the sights are different,
9 both, the front and the rear, the barrel is different. the
10 action, if you look at this like here, the receiver bridge,
11 that's long and this has been shortened, again trying to make
12 the overall thing shorter. Take a look at the bolt handle,
13 this one the bolt handle comes right straight down, this bolt
14 handle is what you call a dog leg that comes farther forward.
15 The reason for that of course is that you also take a look at
16 the trigger -- I won't go through the reason -- you take a
17 look at the trigger. this trigger comes down and back, this
18 trigger comes out and forward, so what they were accomplishing
19 here is Keeping the trigger pull the same, allowing them to
20 cut another inch off the stock of the carbine as compared to
21 the rifle. I don't know if I'm being clear -- what they did
22 is they moved the trigger pull forward by an inch. This
23 trigger is an inch farther back with respect to this action.
24 this trigger is an inch farther forward as evidenced by moving
25 the bolt forward and the trigger forward. that's--

Linde - Direct

23

2 Q. So what you're saying is

A. The dog leg goes with the trigger. Yeah, I'm having a
4 little trouble clarifying this.

5 Q. You've got a shorter rifle here with this carbine and
that was not accomplished just by cutting the barrel off or doing
7 something with the wood.

8 A. No. No. what I'm trying to say also is that the action is
shorter and that the position of the back of the action is
9 moved forward an inch and that makes it even an inch shorter

11 than just the differences in the barrel length. As you can
see, the safety lever is different between the two and
obviously the stock is different and the trigger guard
foreplate, this was a plastic assembly and this is a metal one.
So if you take the basic elements of it, the -- I guess that is a
cliche -- the stock is different, the action -- the lock
is different on both of them, the barrel is different, the sights
are different, the foreplate is different, the trigger is
18 different, the safety is different.

19 Q Is the fire control different in those two rifles?

A. Yes, it is.

Q. Okay. Now who, Mr. Linde, was the designer of the Model
22 600?

24 A. The Model 600 was designed by Wayne Leek and the people
that reported to him.

25 And the Model 700 was designed by?

Linde - Direct

24

1 A. By Mike Walker's group and the people that reported to him.

2 Q. And these two design groups didn't have anything to do

3 with each other. You had a 600 design group and a 700 design

4 group. Is that correct?

5 A. Well, you had two real string designers in Wayne Leek and

6 in Mike Walker, and they worked -- you know, they worked

7 together but they had their own groups and their own ideas.

8 Q. All right, and Mr. Leek's ideas were different from Mr.

9 Walker's ideas.

10 A. Yes, they would differ.

11 Q. All right. Now I think we want to talk a bit about the

12 fire control and we've got some exhibits here. Mr. Linde, I'm

13 handing you what's been marked as Defendant's Exhibit #71 and

14 what is that please?

15 A. It's a Model 600 trigger assembly, and what it shows, is

16 it shows all the parts --

17 Q. I'll get it in before we show it to the jury.

18 A. Oh, okay. It shows all the parts like what you might call

19 an exploded view. It shows a housing and then the parts, how

20 they would come together to form the assembly.

21 Q. All right, and that has been mounted on this board here.

22 A . Yes.

23 Q . All right.

24 MR. SHAW: At this time, Your Honor, we would offer

25 Defendant's Exhibit #71.

Linde - Direct

25

2 MR. McDONALD: No objection.

3 THE COURT: It will be admitted.

4 BY MR. SHAW:

5 Q. I'll set this down for a moment, we've got another one
here.

7 A. Yeah, why don't we just -- we'll set it over here. Can I

8 show it to the jury now?

Q. Let's get the other one in.

A. Oh. okay.

11 Q. It might be nice to show them together.

A. Okay.

13 MR. McDONALD: Is that #72, John?

MR. SHAW: This is #72, Mr. McDonald.

MR. McDONALD: Admitted without objection.

16 MR. SHAW: All right.

THE COURT: It will be admitted.

BY MR. SHAW:

19 Q. There you go then, that's the Model 700 trigger assembly
and in the shadow box?

21 A. Yes, it is.

Q. All right --

AR. HEADLEY: Make sure it's identified in the record.

24 MR. SHAW: It's Exhibit #72, Your Honor.

25 MR. HEADLEY: And what is it?

MR. SHAW: And it's a Model 700 trigger assembly

Linde - Direct

26

1 shadow box where you've mounted those parts on the board.

2 BY MR. SHAW:

3 Q. Is that right?

4 A. Okay. I don't know if that's called the shadow box but

5 I'll take your word for that.

6 Q. Okay. It seemed like a nice term. Okay, would you like to

7 illustrate to the jury then with these?

8 A. Yes.

9 Q. Some of the differences between the Model 600 and the

10 Model 700 trigger assembly?

11 MR. McDONALD: Permission to sit in the jury box,

12 Your Honor?

13 THE COURT: Yeah, maybe you could see better down at this end
if you'd move your chair down there.

MR. McDONALD: Sure.

16 MR. SHAW: I'd be glad to get you a chair.

17 MR. McDONALD: No, I'll stand. Mr. Linde and I are

18 about the same height.

BY THE WITNESS:

20 A. Here we have the Model 700. What I think we ought to do is
concentrate on it part by part, and so if you take a look

22 at the housing, the Model 700 trigger assembly housing, this

23 is the two side plates that are riveted together. I don't

24 know if you can look -- I can tip it back and forth, but you

25 can see the four rivets where it rivets the spacers pins.

Linde - Direct
27

1 Q. Is there any way you can angle these?

2 MR. SHAW: Can all the jurors see? All right. Do
3 you want me to hold one?

4 BY THE WITNESS:

5 A. The trigger assembly housing, which is the structure that
6 the parts work in, the Model 700 is a riveted assembly, it's
7 riveted with from two side plates, two spacer blocks and
obviously the four rivets. The Model 600 is a folded assembly,
9 just like a U shaped folded part.

10 Q. So you took one piece of metal?

11 A. Yes.

12 Q. And you folded it?

13 A. Folded it up and then bent tabs in for the adjusting
14 screws on the front. On the trigger, take a look at the
15 trigger. Here's what I was saying. If you look on the 700 you
can see how the trigger finger piece comes back to the
back and how it's shaped and grooved, and if you look at the
18 Model 600 you can see -- here's where I was saying where
the trigger shoe is much farther forward. If you take a
look at the pivot, where it pivots you can see that the
trigger finger piece is forward of the pivot on this, to
the rear of the
22 pivot on that. If you take a look at the connector that goes
23 onto the trigger, you'll notice this connector is longer and
24 it goes from the top down below the pivot and this connector
25 is shorter, it starts from the top and goes about down to the

Linde - Direct

28

1 pivot. The height is different on those two assemblies.

2 Q. All right. Mr. Linde, you've been through them then the
3 housing, the trigger and the trigger connector on the 700
and the 600 and they're different. Is that correct?

5 A. That's correct.

6 Q. All right.

7 A. The safety lever which is on the 700 again -- the
safety lever, you can see that the button on the top of the
safety lever is different from the button on the 600. Also, the
arm you notice the arm, the angle on the arm is different,
how it comes down into the safety lever and also on this
safety lever you can see the width of it, how it comes
down in the

13 angle, of course, of the bolt lock, the extension on it.
But this safety lever assembly and this safety lever assembly
are completely different. Now if you take a look at just some
of the other things, by the nature of this trigger assembly
-- or pardon me, trigger housing --

18 Q You're pointing to the 700 trigger housing.

19 A. 700 trigger housing. You see where it says trigger

20 engagement screw? Notice that that's a smaller screw than
the trigger engagement screw or trigger adjusting screw it's
22 called here on the 600. The 600 had an interrupted thread

23 that went into the back. You can see that's significantly

24 different.

25 Q. So that screw is different.

Linde - Direct

29

A. Yes. The trigger screw in front on the Model 700 that
2 pushes up against the spring -- you can see the spring and you
3 can see that screw, then you can see on the 600 where you have
4 a larger screw and a larger trigger spring. The sear safety
5 cam are pretty much the same between the two models. The sear
6 pin would be the same, some of these like the safety snap
7 washers and springs -- in the 600 we had a nylon detent ball
8 as you can see right here, nylon detent ball, and with the 700
9 we had a steel detent ball.

10 Q. Now that detent ball is what fits in the housing on which
the safety works. Is that correct?

12 A. Yes.

13 Q. Okay, and the detent is where it's either on or off. Is
that right?

A. That's right.

Q Or detant.

A. It's always been detent to me.

Q Okay.

A. The safety detent spring is the same, the spring acts
against that ball and that would be your two detent positions. I
think that covered pretty much all the parts.
think though it actually would be a little better if we had
some parts.

Q. All right. Are these actually some of the parts that are
on this board, Mr. Linde?

Linde - Direct

30

A. Yes, they're the same.

Q. Okay. I don't have these envelopes marked. Do you think you can tell the difference?

A. I think so, yes.

MR. McDONALD: Mr. Shaw, if you don't mind if we could just mark the envelopes as exhibits, we have no objection and they can go ahead and be used. And get all the parts back in the envelopes.

MR. SHAW: Okay. I've torn one in half but we could tape it.

MR. McDONALD: We'll get a different envelope.

(CONFERENCE BETWEEN ATTORNEYS, AFTER WHICH:)

MR. SHAW: I think we've had a pretty good suggestion here. We'll make these parts for the 700 #72-1 in the envelope, and the parts for the 600 #71-1. How's that?

THE WITNESS: May I just pass the parts around to the jury?

MR. SHAW: Your Honor, may he pass these parts to the jury please?,

THE COURT: Well, pass them around.

MR. SHAW: Well, if we lose them --

THE COURT: Get your micrometers out, jurors, so you can measure them. What are they supposed to do with them?

THE WITNESS: They can just see the difference, because they're so small it's kind of hard, but then you can

Linde - Direct

31

2 obviously see the difference when you hold them in your hand.

3 MR. SHAW: And they were mounted on the shadow box,

4 Your Honor. Tell them the one is the 600. Well, I believe it

5 would be easier, I think, if you passed the 600 first, okay.

6 THE COURT: Well, we'll take a 20 minute recess. The

7 jurors remain in the box and handle those to your satisfac-

8 tion, the little pieces of metal, and then you can go to your

9 jury room. When you're all ready to go to your jury room, why

10 you can go to your jury room and take a 20 minute recess.

11 COURT IN RECESS FROM 10:16 A.M. UNTIL 10:48 A.M.

12 AFTER RECESS

13 THE COURT: I might tell the attorneys that some of

14 the jurors had a suggestion to my bailiff that they could

15 shorten this trial considerably if Remington would just fly

16 them all back to Ilion and let them look at that factory

17 themselves.

18 MR. SHAW: Could we go too?

19 THE COURT: That would be up to your client I guess.

20 MR. SHAW: It may be cooler back there.

21 THE COURT: Proceed.

22 BY MR. SHAW:

23 Q. All right, Mr. Linde, what's the function of the gallery

24 test when you tested for FSR in the gallery?

25 A. The function of the gallery test is to see if there was any

changes in the gallery to the rifle as assembled and

Linde - Direct

32

2 tested, from the time it was assembled to the time it went
3 through the gallery.

4 Q. Okay. And so with regard to FSR you're seeing if -- are
5 you seeing if anything was done in the gallery by way of this
6 high pressure proof round that went through it?

7 A. Yes, you have your high pressure proof rounds and also you
8 have your other testing and there's changes between the fit
9 between the wood and the metal and there's also changes in the
10 metal parts from any kind of setting or deformation that might
11 happen in the proof round, so that you want to assure yourself
12 that there has been no changes that are going to affect the
13 safety of the rifle.

14 Q Now this spring, we've had some of these parts out. This
spring here on the Model 700, the trigger spring, that short
16 spring there. What's the spring rate for that spring?

17 A. That spring is -- right here, the trigger return spring is
a very high rate spring of 225 pounds per inch.

19 Q. Okay, and that's to handle the five pound -- three to five
pound trigger pull and the return force. Is that correct?

21 A. Yes, to get it into the assembly it has to be of a small
diameter and then it has to be a high rate to get the five to
six and a half pound load on the trigger to return the trigger.

Q. All right.

25 A. You should also be aware, of course, that at this point --
well maybe I could demonstrate. Well, the travel as we went

33

1 through yesterday up here is 20 15 to 20,000ths for the
2 engagement to let off and then the connector moves forward of
3 that a little bit so you might have a total travel up here of
4 40,000ths and with your lever arms this distance being twice
5 as far as the distance to the spring, so the travel on the
6 spring would be, say -- oh, 20 to 30,000ths. So the total
7 motion on that spring is pretty short.

8 Q Okay, and what's the point of that with regard to the
9 function of the rifle and these adjustment screws?

10 A. Well, the point is that when you fire it's 20 to release
11 and when you release it, it compresses it a little more and
12 the total amount that that spring is compressed is about
13 say it would be about 25 to 30,000ths.

14 Q Okay, and a short turn on this screw then will change the
15 rate.

16 A. Oh, very definitely. Well now it won't change the spring
17 rate, but it will change the

18 Q. No.

19 A. -- the force to return the trigger.

20 Q. That's right, it will change the force.

21 MR. SHAW: I am reminded that we have not yet, Your
22 Honor, offered Exhibits #72-1 which are the Model 700 fire
23 control parts and the Exhibit #71-1 into evidence, and we
24 would at this time.

25 MR. McDONALD: No objection.

Linde - Direct

34

THE COURT: Be admitted.

2 (CONFERENCE BETWEEN ATTORNEYS, AFTER WHICH:)

3 MR. SHAW: Further reminders. I'm reminded, Your

4 Honor, that yesterday Mr. Linde did some art work which is a

5 little drawing, sketch of a trigger block type safety in a

6 manner of fashion and that's Defendant's Exhibit #74, and we

7 would offer that into evidence.

8 MR. McDONALD: No objection.

9 THE COURT: It will be admitted.

10 BY MR. SHAW:

11 Q. Mr. Linde, did the safety on the Model 600 and the safety

12 on the Model 700 function differently?

13 A. Well, the Model 600 and Model 700 safety, both functioned

14 correctly if used properly.

15 Q. What if they weren't used --

16 THE COURT: That wasn't the question, the question

17 was did they function similarly.

18 THE WITNESS: That's kind of a different question.

19 The operation is essentially the same but the parts are of a

20 different shape. It's like -- the best analogy I have is like

21 a Ford V-8 engine of 300 cubic inches and a Chevrolet V-8

22 inches of 300 cubic inches. They both operate the same. They

23 both have pistons, they both have a cam shaft, they both have

24 a crank shaft, they both have the key parts, but you can't

25 take the parts from the Chevy and put them in a Ford. So if

Linde - Direct

35

2 -you say well do the two engines operate the same, yes, they
3 function the same. These two safeties function essentially
4 the same, yes.

5 THE COURT: All right.

BY MR. SHAW:

7 Q. Did the safety of the Model 600 function differently from
8 the safety of the Model 700 when you put the safety lever in a
9 mid position?

10 A. Before 1975, yes.

11 Q. And could you -- is this what's known as the trick
condition?

A. Yes.

14 And could you explain this trick condition please to the
court and the Jury?

16 A. Yes. I'm going to have a little difficulty explaining it

17 in that it was a 600 housing and the parts were 600, and the
only thing I have to demonstrate it on is a 700, so if you
bear that in mind I can try to demonstrate what the situation
20 was on the 600.

Q. All right. I'll step around here out of your way.

A. The high percentage of rifles in the Model 600 that would
23 trick, and I think you've had the trick test probably

24 explained to you, but the rifles that would trick would trick
because of this part right here, the safety lever. And why
the safety lever played that role was it has this cam, you can

Linde - Direct

36

see here the cam. When you put the safety in the on safe position, and let's put it down where we can really work.

Right there, you see the safety cam, it's coming up against this sear, it's hitting it then it lifts it as it comes on.

On the Model 600 when you put the safety in this intermediate position so that that safety ball -- and you can see don't know if you can see through there or not, but the safety that plunger ball is like right between those two holes so that ball is right on-the top of that edge. That center position with the Model 600, this can right here, this surface -- this back surface which is kind of hard to see -- there. That back surface right there was farther forward, it was up here.

It would be like oh, maybe that much you know, just estimating, about that much farther forward and then therefore the radius, this radius right here was farther forward.

Q. Now what's the radius?

A. Let me --

Q. Excuse me. I'm not sure I understand what a radius is.

A. Well, your cam radius and I'm going to position it where that would have been. it would have been like right there.

With this -- with the safety in the center position on the 600, that can would have been right there, and then you can see it's right at the point where it's dropping the sear, it's dropping the sear -- that point there. And as it drops, and because you can see how much change it makes with Just a very

Linde Direct

37

2 little motion see, if I come up right there now watch the
sear come up or down. See, it was just a very little sear
4 motion -- or pardon me, a very little cam motion, the sear
comes up or down. Now that is important because if it comes
6 down -- and I'm going to just bring it down -- at that
point what happened was on the trick, is it would catch.
So I get it down -- okay, right there. You see? That would be the
trick condition on a Model 600. Now let me go through it--
let me tell you what we've done.

11 Q. You're describing sear lift, is that right?

12 A. Exactly.

Q. We're not talking about the connector here, we're not
14 talking about the trigger, what's happening is back here
between the safety and the sear.

16 A. The whole relationship between this cam -- this cam in
here, right there, and this surface on the sear. So just to
18 go through it once more is that on the Model 600 that
surface was farther forward and that -- consequently the
radius up on the top, that radius right there was consequently
farther forward and so like on the Model 700 which this shows,
when I get it into that intermediate position, you see, I'm
solidly on the cam. The Model 700 is solidly on the cam. on the
600 - now I'm going to push the safety on the 700

farther forward so it's almost in the fire position. On the 600
the cam was right there. This is why some of them could trick
and some of

Linde - Direct

38

2 them would, and this is also why tests of the trick test on
2 the 600 wasn't consistent, because just a slight variation

3 would affect how high that sear was, which would in turn

4 affect whether the trigger could be turned or not.

5 Q. And you passed this part to the jury, you had it in what I

6 call a shadow box, this safety lever cam was different on the

7 Model 600 than the Model 700.

8 A. Yes. Not only the button, the angle on the -- because it

9 went into a different rifle. The angle on the lever, the cam,

10 how the cam was dimensioned were all different between the 600
10 and the 700.

12 Q. Now with the 600, if you had the safety in the full safe

13 position and were using it in that way, it would lift the sear

14 and do its function as a safety.

14 A. Yes.

16 Q Is that right?

17 A. On a full on safe position it functions just exactly that

18 way, just like this. It would be right down on there, the
18 sear steel -- or is right down on the steel on this cam. So in a
18 full on safe position the 600 functioned exactly as the 700.

22 Q. But in the 600 if someone somehow got it manipulated,

23 stuck here midway, then on the 600 it might not be able to do

24 its job. Is that correct?

25 A. That's right. Not only --

Linde - Direct

39

2 Q You've got to get it right, though.

3 A. Not only if they got it in this position, they had to
balance that safety in the center position on the detents
5 where it's not designed to go or not intended to go, then they
also had to pull the trigger.

7 Q All right.

8 A. You can't just have one event or the other event, you have
to have both events and both events have to happen.

10 Q. And how did the pulling of the trigger figure into this
trick condition, Mr. Linde?

12 A. Well, if I can get it in here in trick, duplicated trick
then I pull the trigger right there, that's how the condition
14 is set up.

Q When you pull the trigger and the sear drops.

A. Yes.

17 Q And because the sear has dropped the connector and trigger
cannot return.

19 A. Yes.

20 Is that correct?

21 A. And what's happening is -- is that this -- let's go on

22 back, this is kind of hard to demonstrate. It's trapped and

23 the -- this cam right here is pulling this part of the sear up

24 so when I release the safety from the mid position forward, it

25 allows the sear to drop and to fire the rifle.

Q. Now the connector is not related then to this trick condi-

Linde - Direct

40

tion. Is that right?

2 A. It has no relation.

4 Q. The sear is dropping such that the trigger and connector
cannot return and would it be a fair statement that this gun

6 would trick then because this sear has dropped whether you had

7 a solid trigger or a connector?

8 A. It wouldn't make any difference.

9 Q. And the 700 was not susceptible to trick because of the
difference in the safety lever cam. Is that --

10 A. Well, you can actually see it. This model shows it. When
you get this in the center position you can see all the

12 engagements that you have. You can see it right up on the cam

14 of the center position.

15 All right.. In terms of functioning this trigger --

THE COURT: Well let me interrupt just a minute. I

17 don't -- under that testimony as I interpret it, it would be

18 impossible for the Model 700 to trick. Is that right?

THE WITNESS: That's right.

20 THE COURT: Well why do you test it for trick three
times then and three times again?

21 THE WITNESS: We test it for trick when we -- we

23 initiated the test when we had the problem with the 600. We
didn't know what we had and we wanted to make sure that we

25 never had a trick position in the 700. Then when we found out
that -- when we initiated the trick test we found out that we

Linde - Direct

41

1 could also see if anything was marginal with other things. It
2 would pick up other things like the problems -- any kind of a
3 problem with the safety lever binding and other conditions, so
4 we left the test in.

5 THE COURT: Proceed.

6 BY MR. SHAW:

7 Q. If you could, Mr. Linde, with regard to the functioning of
8 this trigger, if a gun -- a Model 700 is FSRing because the
9 trigger return spring is not returning the connector and
10 trigger back underneath this sear, could that outwardly, when
11 you were performing the trick or the FSR test, look like the
12 trick condition?

13 A. Yes. If you put it in the center position, the safety in
14 the center position you have the trigger not returning and you
15 pull the trigger and it stays there, and you release the
16 safety, it's going to fire.

17 Q. So --

18 A. And whether it fired because of the cam or because of
19 that, it's still going to fire, but as far as failing the test
20 of the problem that we had with the Model 600, it has no rela-
21 tionship to it.

22 Okay, so you've got the safety on, so in the 700 the sear
23 is fully cammed up. You put the safety in the mid position
24 it's still-cammed up. When you pull the trigger, if you don't
25 have enough return force here the trigger and connector are

Linde - Direct

42

not going to return. Is that correct?

A. That's correct.

Q. You've got the safety here in the mid position. When you put the safety off the sear can then fall and the gun fires.

Is that right?

A. That's right.

Q. And that could appear outwardly as if you had tricked that gun, but instead it is FSring because of inadequate return force. Is that right?

A. That's right, but in that case it wouldn't make any difference if the trigger was pulled whether it was a full on safe or in a half safe position.

Q. Now it's my understanding that the trick condition on the Model 600 first came to Remington's attention in --

(CONFERENCE BETWEEN ATTORNEYS, AFTER WHICH:)

BY MR. SHAW:

Q. The evidence has been that the trick condition in the Model 600 first came to Remington's attention in 1975 because someone down in Texas had been playing with their safety on their Model 600 and told Remington that he got it to trick.

Is that right?

A. Essentially, yes.

Q. And what was done to your knowledge after Remington received that information from that one gun owner?

A. We had an individual who talked to the individual on the

Linde - Direct

43

1 telephone as I recall, and they went back and forth on what he
2 was actually doing, because it was kind of confusing to us in
3 what he was doing.

4 Q. And this action was taken immediately. Is that correct?

5 A. Yes, very much so.

6 THE COURT: What action?

7 MR. SHAW: Calling this individual, Your Honor, who
8 said his gun tricked. I believe the witness's testimony is
9 that as soon as Remington was told that, then they called him
10 and discussed him what he was doing so they could find out how--

11 THE COURT: That's the worst hearsay I ever heard
13 offered in evidence. The jury just totally disregard that
14 about some telephone call.

15 MR. SHAW: All right. They had asked Mr. Sperling
16 about this also, Your Honor, and we're offering this in terms
17 of the state of mind, but it was in 1975 that -- we'll get
18 back to the point. It was in 1975 that this situation arose --

19 THE COURT: Well why did they settle the case if they
20 had that evidence? Now this is a -- well go ahead, the jury
21 can use their own Judgment.

22 MR. SHAW: All right.

23 BY MR. SHAW:

24 Q. And then what further was done with regard to the Model

25 600, Mr. Linde?

Linde - Direct

44

1 A. What further was done?

2 Q. Yes.

3 A. As I recall, either the local Remington rep in that area
4 of Texas went over and talked to the individual or --

5 THE COURT: Well that's all hearsay again.

6 MR. SHAW: All right.

7 BY MR. SHAW:

8 Let me hand you what's been marked earlier and entered as
9 Plaintiff's Exhibit I-1, Mr. Linde.

10 A. Okay.

11 Q. And that is a product safety subcommittee minute of April
12 2nd, 1975. Is that correct?

13 A. Yes, it is.

14 Q. Does that refresh your recollection as to what was done?

15 A. Yes, it does.

16 Q. All right, and could you explain to the jury what was done
17 in 1975 at this time?

18 A. Okay, from the safety operations committee product safety
19 subcommittee minutes, it reports that

20 MR. McDONALD: Well excuse me, Your Honor. If this
21 is a recitation --

22 THE COURT: That's all in evidence. That's been read
23 to the jury twice I know of, those minutes. Now do you want
24 him to expand or something?

25 MR. SHAW: I would like him to explain, Your Honor,

Linde - Direct
45 what was done with regard to the Model 600 here in 1975 with
2 regard to the trick condition and what effort Remington took
3 initially to examine --
4 THE COURT: Well, he can tell what was done but he
5 can't read the minutes again.
6 MR. SHAW: All right.
7 BY THE WITNESS:
8 A. We sent some people down to Texas. We went to the whole-
9 saler's inventory, we went through all the Model 600s he had
10 there and we checked them.
11 Q. All right.
12 A. And we made notes of what tricked and what never tricked.
13 Q. Now this minute, April 2nd, 1985, states that four guns
14 were found to fire when the trigger was pulled with the safe
15 on and then the safety was taken off.
16 THE COURT: That isn't tricking, is it?
17 THE WITNESS: No. that's not.
18 THE COURT: Is that FSR?
19 THE WITNESS: That's FSR.
20 THE COURT: All right, go ahead.
21 BY MR. SHAW:
22 And were these guns returned to Ilion, Mr. Linde?
23 A Yes, they were.
24 QQ And did they come to the attention of the research
department?

Linde - Direct

46

1 A. Yes, they did.

2 Q. And at that time you were a member of the research depart-
3 ment. Is that -correct?

4 A. Yes, I was.

5 Q. And did the research department examine those guns?

6 A. Yes.

7 Q. And what did they find with respect to these four 600s
8 that were said to FSR?

9 A. They found that on one of them that you could take and you
10 could make the rifle FSR. It was interesting -- maybe I could
11 demonstrate.

12 Q. All right, let me hand you again what's been marked as
13 B-13 which is a Model 600.

14 A. On the rifle in question, and this is one of the four that
15 I examined, if you took and you closed the bolt and if you put
16 the rifle completely in on safe position, and if you pulled
17 the trigger back as hard as you wanted to and released the
18 trigger, moved the safety to the fire position, nothing would
19 happen. And you could do that time and time again and that
20 rifle would not fire when the safety was released. If you
21 took the rifle and you put it on safe, and if you took the
22 trigger and you pulled up in this direction as hard as you
23 could and you pulled it to one side, up into one side and then
24 you released the safety, you could get it to fire when the
25 safety was released by going -- I don't know the frequency,

Linde - Direct

47

but maybe 40% of the time.

2 Q. So you had the gun on safe, you were pulling the trigger

3 with extreme force and you were twisting or turning the

4 trigger as you pulled it up?

5 A. Yes. You take and put it on safe, pull it up and pull it

6 to one side.

7 Q. And so that was not an FSR in the terms of the FSR test?

8 A. Well, it was an FSR because it would fire when you

9 released the safety, but it was not like what we were doing in

10 the gallery.

11 Q. And you were in essence trying to twist and move the parts

12 in the 600, or you were moving the parts when you did that

13 test. Is that right?

14 A. Yes, there's a -- because of the pivot there's a slight

15 clearance between the trigger pin and the hole in the trigger

16 for this thing to work free.

17 Q. And did that in part relate to this folded metal housing

18 that you had on the 600 and did not have on the 700?

19 A. No, that wouldn't have any impact on it that I could see.

21 Q. Was it something that would occur in the 600 but would not
occur in the 700 if you did this kind of motion?

22 A. Yes.

23 Q. Okay. Is that what became known as the worst test?

24 A. Yes, it was.

25 Q. Which was not an FSR test in the sense as you explained of

Linde Direct

48

1 pulling the trigger when the gun's on safe?

2 MR. McDONALD: Excuse me, Your Honor, I object.

3 That's asked and answered. This witness said it was an FSR
4 condition because it fired upon release of safety. Repeti-
5 tious.

6 MR. SHAW: Well Your Honor, I don't believe it's
7 repetitious. We're trying to explain what the condition is.

8 THE COURT: Well you asked him -- or you told him and
9 he said no, that it was not an FSR test, and he said well it
10 was. It fired on release of safety.

11 MR. SHAW: But I was asking about the test, Your
12 Honor. If I might proceed.

13 THE COURT: Well what are you asking him now?

14 BY MR. SHAW:

15 Q. Mr. Linde as you've explained with regard to these four
16 600s, you were not doing --

17 THE COURT: Just one of them now, he just talked
18 about one of them.

BY MR. SHAW:

20 Q. All right, with regard to this 600 you were not doing the
21 Remington FSR test.

22 A. No, I was not.

23 Q. Now what was the --

24 THE COURT: What was that, the Linde FSR test?

25 THE WITNESS: No. No, this is from the investigation

Linde - Direct

49

of--

2 THE COURT: Go ahead, go ahead.

3 BY MR. SHAW:

4 Q. Mr. Linde, what was the cure for the trick condition on

5 the Model 600?

6 A. I explained what the condition was, and what we did was we

7 moved this surface back, essentially back to where the 700 is,

8 and we increased the lift on the cam. The other thing we did

9 was we changed how the parts were dimensioned and how the

10 parts were positioned when they were being manufactured to

11 control the tolerances closer in the manufacturing operation

12 at the vendor so that the tolerance -- what they call

tolerance buildups would be minimized. So on the 600 cam, we

brought the cam back and the reason we brought that cam back

16 is to keep the safety on for longer in the stroke. That is,

we now keep the safety on past the detent position so the

17 safety does not release until the lever almost comes right to

18 the fire position and we -- the clearance between the -- this

20 clearance right here, was minimized so when the gun fires

there was just a minimum of clearance there and so that we

kept that safety on all the way up to the point that it was in

23 the fire position.

Q Okay. And that had to do with this midpoint condition

then, you're working with that situation?

A Yes, well the midpoint position corrected it right here

Linde - Direct

50

1 from the standpoint of the trick, because you've got a condi-
2 tion like the 700 has, and lifting the tolerances or changing
3 the dimensions and the tolerance buildup increased the lift on
4 this 600 safety. So we increased the clearance and we kept
5 the safety on longer.

6 THE COURT: Well you've lost me now. That's how
7 you've cured -- you're investigating FSRs though, aren't you?
8 Would that cure the FSR condition?

9 THE WITNESS: Yes, because what you did was increased
10 the clearance also.

BY MR. SHAW:

12 Q. You were investigating the trick and curing the trick
condition. Isn't that right, Mr. Linde?

14 A. Yeah, well this would

15 MR. McDONALD: Excuse me.

16 THE COURT: Well we were talking about the FSR condition all
the way and now all of a sudden you've changed it
18 To a trick condition.

19 MR. SHAW: Well Your Honor, we were talking about the
20 trick condition now. We were talking about four --

21 THE COURT: Well I think that you lost me and I'm
sure you lost members of the jury. You're now trying to cure
23 the trick position- Is that right?

24 MR. SHAW: Yes, Your Honor.

25 MR. McDONALD: Excuse me, Your Honor. I object to

Linde 7 Direct
51

1 the question because it's repetitious and asked and answered.

2 The witness indicated that they were attempting to take care
3 of the clearance between the trigger connector and the sear.

4 THE COURT: The jury will understand. They said

5 first that the connector had nothing to do with the trick
condition. Didn't you testify to that?

7 THE WITNESS: That's right.

8 THE COURT: Now what's this clearance business then?

9 THE WITNESS: The safety -- when the safety is on
10 there's a clearance

11 THE COURT: Well I understand.

12 THE WITNESS: Okay, between the sear and the top of
13 the connector. if -- on the 600 we changed the cam, we
14 changed the cam to keep the safety on longer so that the sear
15 would not fall down when the trigger was pulled, and we also
16 increased the heighth of the cam to increase the clearance
17 between the sear and the top of the connector when the
rifle was in the full on safe position.

19 BY MR. SHAW:

20 Q. But the focus then is on the sear lift which is a lifting

21 THE COURT: He didn't say -- he said they -- didn't
23 you say they changed the clearance?

24 THE WITNESS: The sear lift, when you cam it up --

25 THE COURT: I understand that, but a minute ago you

Linde - Direct

52

1 said

2 THE WITNESS: -- what that cam does is it cams the
3 sear up higher increasing the clearance between the sear and
4 the connector.

5 THE COURT: Very well.

6 THE WITNESS: If I'm not being clear help me.

7 THE COURT: Well I understand that. You didn't do
8 anything to the connector, you simply increased the lift there
9 so that there would be more clearance. Is that right?

10 THE WITNESS: That's right.

11 THE COURT: There would be more clearance.

12 THE WITNESS: And then we kept that clearance on
13 longer in the cycle past the center detent position.

14 THE COURT: Okay.

15 THE WITNESS: So it essentially was the safety, it
16 stays on safe almost until it's in the off safe detent hole.

17 BY MR. SHAW:

18 Q All right, so you're keeping the safety on longer then,
19 keeping this clearance --

20 THE COURT: Yes, he said that. You don't need to
21 repeat everything he says, Mr. Shaw.

22 MR. SHAW: All right, yes Your Honor.

23 THE COURT: He speaks pretty plainly.

24 MR. SHAW: Okay.

25 BY MR. SHAW:

53 Linde - Direct
Q. Mr. Linde we're talking about the trick condition. Did
3 you --
THE COURT: Are we abandoning these six rifles that
5 had the FSR conditions?
6 MR. SHAW: We're abandoning the four rifles, Your
7 Honor.
THE COURT: Four rifles.
9 MR. SHAW: We're not talking about that, we're talk-
10 ing about the trick condition.
MR. HEADLEY: In the 600.
11 MR. SHAW: In the Model 600 in 1975.
12 BY MR. SHAW:
14 Now did you attend certain product safety subcommittee
minutes -- product safety subcommittee meetings?
15 A. Yes.
16 Q. In 1975?
17 A. Yes.
Q. When this trick condition on the Model 600 was being dis-
19 cussed?
20 A. Yes, it would be in that time frame.
21 Q. And why did you attend those meetings?
23 A. Because I was working on the safety mechanisms at the time.
24 Q. You were in the research department at that time?
25 A. Yes, I was.
Q. And in 1975 you were responsible for bolt action rifles?

Linde - Direct
54

1 A. Yes, I was.

2 Q. So it was your job personally at this time to investigate
3 this situation in part?

4 A. Yes, it was.

5 Q. Let me show you what's earlier been marked as Plaintiff's
6 Exhibit I-2. which is another product safety subcommittee
7 meeting minute. Take a moment to look at it. What's the date
8 on that minute, Mr. Linde?

A.. April 23rd, 1975.

Q And did you attend that meeting?

A. Yes, I did.

12 Q. Your name is shown on the front as having attended that
13 meeting. Is that right?

14 A Yes, it is.

Q Okay, and why did you attend that particular meeting?

16 A We were talking about the work that was being done by both
17 research, marketing and production on the Model 600 and 788
18 and 580 series.

19 Q All right, and did you give the report there for the
20 research department?

21 A Just a second, let me read through it.

22 Q All right.

23 A Yes, I'm familiar with this.

24 Q Okay, so you gave a report to the product safety sub-
25 committee on the investigation into the Model

Linde - Direct

55

2 THE COURT: Now you're testifying now, he said he was
3 familiar with it. He didn't say he did it.

4 MR. SHAW: All right, but he wanted, Your Honor, to
5 take a look at it and answer my question as to whether he gave
6 a report.

7 THE COURT: And he didn't answer it, he said he was
8 familiar with it.

9 MR. SHAW: All right.

10 THE COURT: Now you're saying he did prepare a
report. He hasn't said that.

12 MR. SHAW: That's what I was going to ask him, Your
13 Honor.

14 THE COURT: Proceed.

BY MR. SHAW:

16 It indicates that there were status reports given and
17 there was a status report given by the research department.
18 Did you give that report, Mr. Linde?

19 A. Yes, I did.

20 Q And what was that report discussing?

21 A. It talks about the changes that we were just discussing
22 here on this model. It lists three.

23 Change part dimensioning to insure adequate lift of
24 the sear by the safety cam. Specified hardening of
25 fire control housing to minimize wear between the detents.

Linde - Direct

56

Well, I guess we never talked about that. "Increase the length of the safety lever cam" we talked about.

Q. And those were the three things you did on the Model 600 in 1975.

A. That's right.

Q. It also indicates that there were plans to begin a study during the second half of 1975 to develop a new safety mechanism.

A. Yes, we were looking at -- "Develop a new safety mechanism to see what was available".

Q. And was that your assignment?

A. Yes, it was.

Q. All right, and at this time were you also investigating the safety mechanisms of the Remington products?

A. Yes, I had.

Q. And who gave you that assignment?

A. I worked for Wayne Leek and he was the head of the Remington research division.

19 Q. All right. Let me show you what's been marked as

20 Defendant's Exhibit #73. Could you tell us what that is,

21 please?

22 A. It's a letter from myself to Wayne Leek, subject

23 evaluation of bolt action rifle safety mechanisms, 580, 788,

24 600 and 700. The date is May 7th, 1975.

25 MR. SHAW: At this time we'd offer Defendant's

Linde - Direct

57

Exhibit #73.

MR. McDONALD: No objection, Your Honor.

THE COURT: Well I object to putting in something this man wrote when he's here testifying. Well go ahead, it's admitted in evidence.

BY MR. SHAW:

Q. Mr. Linde, in 1975 then you were investigating all of the 8 various safeties on Remington bolt action rifles. Is that

9 correct?

10 A. That's right.

Q. And could you describe for us what you did in 1975?

12 A. On the Model 600? I was actively involved with the situa-

13 tion on the trick and the lift. I did what we were talking

14 about in the other minutes. This is a continuation of that,

15 about how the safety levers were redimensioned, the dimensions of the safety lever cam were changed to give greater lift on the sear and maintain the lift longer when the safety is moved from on safe to off safe. I looked at the possibility of the fire control housing -- changing the housing that the system rides in, using the Model 700 housing on the Model 600 wherein we would have hardened steel side plates on the -- underneath the detents.

Q. This was all on the Model 600?

A. This was all on the Model 600.

Q And were these recommendations then made to process

Linde - Direct

58

engineering to get them into the actual manufacturing process in 1975 for the Model 600?

A. Yes. We were actively working with the process engineering people and assisting each and every possible why, and at this point what we were doing from a research standpoint is we were making up models with these changes, and we were testing these, dry cycling and making sure everything was working properly. At the same time we were supplying drawings to the process engineering people so that they could be talking to the vendors and the people who make the parts to make sure that everything was consistent and they could do what we wanted done.

Q. So you personally were investigating the situation with the Model 600 and seeing what you could do to cure the trick condition.

A. Yes.

Q. Did you look at the safeties on other bolt action rifles in the Remington line at that time?

A. Yes. I was responsible not only for the 600 and 700 but I was also actively working on the 580s and 788s at that time.

Q. Did you also look at the 700?

A. Yes, I did.

Q. So at this time you took the responsibility to look at all the Remington safeties to see how they would operate and whether they would operate properly. Is that correct?

Linde - Direct

59

1 A. That's correct.

2 Q. At this time, in 1975, with regard to your assignment and
3 your responsibility, did you reach a conclusion as to whether
4 the Remington Model 700 safety would operate properly?

5 A. Yes, we did.

6 Q. And what was your conclusion?

7 A. We concluded --

8 MR. McDONALD: Your Honor, this is exactly what --

9 THE COURT: Yeah, that's a matter of opinion. This
10 man is not qualified, he's not listed as an expert witness and
he cannot answer that question.

12 MR. SHAW: May we approach the bench, Your Honor?

13 THE COURT: You may.

14 BENCH CONFERENCE

15 MR. SHAW: Your Honor, this is the point that I was

16 trying --

17 THE COURT: I don't want to argue with you, you make
18 an offer of proof if you want to.

19 MR. SHAW: All right. We would intend to show by
20 this witness that it was his responsibility in 1975 to explore
21 the Model 700 safety which the plaintiffs have put into evi-
22 dence in this case is an issue of what Remington did in 1975
23 and what conclusions they reached and how they did their job,
24 and this witness has testified that he thoroughly examined the
25 bolt action safeties, examined the Model 700 safety and he

60

concluded as part of his assignment and responsibility that the Model 700 safety operated properly and did not have a trick condition.

THE COURT: Isn't that an opinion?

MR. SHAW: It's an opinion which is a fact issue in this case. It's not an opinion with regard --

THE COURT: God damn it, you didn't list him as an expert witness at any time and I've limited both sides to two experts and I'm not going to let him testify to opinion. I've told you that half a dozen times. He's given his opinion to Remington but he can't give his opinion to the jury.

MR. SHAW: All right your Honor.

END OF BENCH CONFERENCE

BY MR. SHAW:

Q As part of your assignment, Mr. Linde, in 1975 were you also to examine the safety mechanisms on competitor's rifles and determine how they functioned?

A Yes, from the time that we proceeded ahead -- I proceeded ahead from this point to take a look at all other safety mechanisms on bolt action rifles. At the Ilion plant we have a -- oh, an area where we keep competitive rifles and we've got fires and shotguns that go back like 50 years, and we continually buy all of the leading competitive guns and we probably have like 300 to 400 competitive rifles and shotguns. So yes I did, I went down and through all the

Linde - Direct

61

different types of safety mechanisms on bolt action rifles.

2 Q. And you also looked at written information that was avail-

3 able. Is that correct?

4 A. Yes, I did.

5 Q. And what was your purpose in looking at these competitive

6 models and analyzing the written information?

7 A. Well, I was going through and balancing what our system

8 was against all the other systems, taking a look at the pluses

9 and minuses of the different safety systems.

10 MR. McDONALD: Excuse me, may we approach the bench?

11 THE COURT: You may.

12 BENCH CONFERENCE

13 MR. McDONALD: This is just -- we're continuing time

14 after time after time to lay foundation for opinion evidence.

15 They know good and well that they've listed this man as an

16 expert the Friday before trial started and that we've had no

17 opportunity ever to question him as an expert witness, and now

18 they continue to try to boot strap him in as an expert. This

19 is exactly what the Court has ruled on time and time and time

20 again and I would like a clearcut--

21 MR. HEADLEY: Sh-h-h. Keep your voice down.

22 MR. McDONALD: I would like a clearcut ruling with

23 regard to any further efforts in this area. We know that the

24 Remington 700 people know more about Remington rifles than

25 most people because they get in there and they design them,

Linde - Direct

62

1 but they never once gave us a fair shake on the depositions
2 with regard to these people and they never listed him as an
3 expert. Now they bring them into the trial under the guise of
4 fact witnesses to put them on as experts, and that's exactly
5 what's going on here and they continue to attempt to do it in
6 front of the jury. Now I would like the Court to --
7 THE COURT: Well he hasn't said anything that you
8 could make an objection to up to this time. Now if he asks
9 him what his conclusion was from his comparison, which was the
10 best or anything like that, that would be -- don't do that.
11 MR. SHAW: All right, Judge, I understand.
12 THE COURT: I'll chew you out in front of the jury
13 which I hate to do to any lawyer
14 MR. SHAW: I understand.
15 THE COURT: -- but I'll do that.
16 MR. SHAW: Okay.
17 THE COURT: Proceed.
18 END OF BENCH CONFERENCE
19 BY MR. SHAW:
20 Q. So Mr. Linde, we're here in 1975, you're examining the
21 safeties on competitive models, other models of bolt action
22 rifles. Were you examining those safeties on those bolt
23 action rifles to determine how they functioned?
24 A. Yes, I was.
25 Q. And you were observing their functional characteristics

63

and how they worked.

A Yes.

Q Is that correct?

A Yes, I was.

Q And were there four bolt action rifles that you particularly focused on in 1975 in terms of their functional characteristics and how each one of those safeties worked?

A Not necessarily. I looked at everything, but you could take and take all bolt action rifles and you can break them down into three basic groups, and that is the safety mechanism either blocks the trigger, it blocks the sear or it blocks the firing pin, and it happens that if you take the leading competitive bolt action rifles at the time which were the Ruger, it blocks the trigger. The Remington blocks the sear and wedges the striker back, and the Winchester blocks the firing pin, so you--

Q All right. Let's--

A Yes you can really, what it comes down to is you can take the leading rifles at the time, you can choose the type of safety in it if you go through that and you can take a look at the pluses and minuses of each system.

Q And that's the Winchester 70, Mr. Linde?

A Yes, the Winchester Model 70, the Ruger 77, Weatherby Mark

Linde - Direct

64

5.

Q. And then the Model 700 of course.

A. Yes.

Q. And about what percentage of the market did that cover in 1975?

A. I'd estimate that those four rifles probably were like 90% of the bolt action market.

UNIDENTIFIED MALE SPEAKER: We've got some problems with the mikes.

(OFF THE RECORD, AFTER WHICH:)

BY THE WITNESS:

A. Well, let me -- the center part of the market.

Q. Okay.

A. Okay, like 40% is lever actions, the rest, 60% is the semi or auto loaders and bolt actions and pumps. And of the bolt action segment, if you take that segment at that time it was really Ruger, Winchester, Remington and Weatherby.

Q. All right. Now we've got here with us today a Winchester 70, a Weatherby Mark 5 and a Ruger 77, and those were the rifles in part that you compared to the Model 700. You were observing the functional characteristics of those four rifles.

22 A. That is some of them.

23 Q. Is that correct?

A. Yeah, they were the leading rifles.

Q. Let me show you what's been marked as Defendant's Exhibit

Linde - Direct

65

#49. Now what kind of rifle is this?

2 A. This is a Winchester Model 70.

3 Q. And is this one manufactured after 1964?

4 A. Yes, it is.

5 Q. All right.

6 MR. SHAW: Your Honor, at this time we would offer

7 defendant's Exhibit #49 into evidence.

8 THE COURT: What's it offered for?

9 MR. SHAW: The witness, Your Honor, would demonstrate

10 the characteristics as to how this particular safety operated
and what are its characteristics.

12 THE COURT: What bearing does that have on the case

13 that this jury has to decide? They're not trying Winchester.

14 MR. SHAW: Well, Your Honor, there have been the --

15 the plaintiffs, Your Honor, in this case spent all of the time

16 talking about the Winchester 70 and making comparisons and

17 talking about how those various safeties --

18 AR. HEADLEY: Three position.

19 MR. SHAW: Three position safety. They talked about

20 that and what the Winchester would do and what the Model 700

21 would not do. This is precisely what this witness did in

22 1975. He reviewed the safeties on various rifles to determine

23 what they would and would not do in terms of the character-

24 istics.

25 THE COURT: Frankly, I thought all that evidence was

Linde - Direct

66

2 inadmissible and I intended to the evidence offered by
3 plaintiffs in comparing these rifles as being a -- had no
4 bearing on any relevant issue in this case except possibly the
5 feature of -- what do you call it when something is -- fea-
6 sible, feasibility. But if this witness wants to testify --
7 offer to prove by this witness that he's going to prove that
8 this system was not feasible for Remington, I'll let you put
9 that proof in, but we're not going to go through -- there's
10 lots more brands of rifles than that aren't there, Mr. Linde,
11 bolt action rifles on the market?

12 THE WITNESS: Yes, but this is characteristic of the
13 three different safety types.

14 THE COURT: And we're not going to go through all
15 that. Let's go in the library and have a -- we'll recess for
16 the noon hour: We'll have to have a little conference on this
17 and we'll recess until 1:30 and I want the lawyers to come
18 directly to the library right now.

19 COURT IN RECESS AT 11:42 A.M.

20 (CONFERENCE IN CHAMBERS, AFTER WHICH:)

21

AFTER RECESS AT 1:36 A.M.

22 THE COURT: You may proceed.

23 BY MR. SHAW:

24 Q. Mr. Linde, we talked earlier about the trick test on bolt
25 action rifles. Now was the trick test instituted on all bolt
action rifles in the Remington process when they were making

Linde - Direct
67

1 and testing them in the factory in March, 1975?

2 A. Yes, it was.

3 Q. And that was all bolt action rifles.

4 A. Yes, it was.

5 Q. All right. Before we left off at lunch you were talking

6 about what you personally did and saw with regard to an

7 examination of bolt action rifle safeties of competitors as

8 well as Remington in 1975. Now did you examine the Winchester

9 Model 70 in terms of how that safety and fire control func-

10 tioned?

11 A. I examined it on how it was functioned and how it was man-

12 ufactured.

13 Q. All right. I'd like to hand you this Winchester Model 70,

14 and just have you show the Court and the jury what you did,

15 what you performed and what you saw. Now I'm not asking your

16 for your opinion.

17 A. I looked at the basic cycles of functioning of a rifle.

18 that is, your loading, unloading, firing, cocking, putting the

19 safety on and putting the safety off. Just speaking, I looked

20 to see what is the throw of the safety lever, and as you can

21 see in the Winchester Model 70 the throw is a little less than

22 180 degrees. I looked to see how you activated it with your

23 thumb. Is it easy to activate or does it require some effort

24 or movement? I went through a sequence of how you would

25 activate that if you wanted to move it from full on safe to

Linde - Direct
68

1 the fire position very quickly. I looked at the considera-
2 tions of how the safety would be impacted by a scope on the
3 top of the rifle with respect to how the safety operates and
4 how the safety can be seen if it has an objective lens over
5 it. Then I went through the basic functions of the rifle.
6 You can start anywhere, you can start -- say I want to load
7 this rifle. How does the safety interface with loading? To
8 load it I have to lift the bolt handle. This rifle, if I want
9 to load it in the on safe position -- just a minute. I want
10 to start from my rifle has been fired -- I want to start the
11 same place every time. With this rifle if I want to load it,
12 load a round in the chamber, to open the bolt I can't put the
13 safety on. I can't put the safety on in this condition with
14 the rifle fired. If I bring the bolt handle up I cannot put
15 the safety on. If I bring the bolt handle back I cannot put
16 the safety on. If I load four rounds in the magazine, push
17 the bolt forward, I cannot put the safety on. I cannot put the
18 safety on until I come down like this and have it in the
19 ready to fire position. I also have to -- you have to note
20 where the positions of your hands are in these conditions, and
21 you'll note as you come forward and down that your hands and
22 fingers are coming toward the trigger and it's in a ready to
23 fire position. This would be the loading, the gun is loaded.
24 Now I can put the rifle in the on safe position. In every
25 case I would check to see if the rifle had a bolt lock. This

Linde - Direct

69

2 rifle has a bolt lock. This rifle is also a three position
3 safety, that is there's a full on safe, there's an intermedi-
4 ate position and there's a fire position. Going through the
5 unloading cycle, I have a live round in the chamber, I have
6 two or-three rounds in the magazine, I want to unload it. I
7 can unload this rifle, the Winchester Model 70 with the safety
8 in the fire position. This rifle right here would fire, and I
9 can unload it. Pull it back, as soon as I disengage I cannot
10 put the safety on. Come back, I still can't put the safety on
11 and I can unload the rest of the cartridges in the magazine.
12 I can also unload this rifle by putting the safety lever in
13 the intermediate position. In this position I can raise the
14 bolt and unload the rifle. I cannot unload the rifle in this
15 full safe on position because of the bolt lock. You'd have to
16 take a look at the other factors that are involved. This
17 safety system works on the firing pin, it blocks the firing
18 pin. As I showed you yesterday when I took and moved the
19 Remington back, this is the same thing. If you look you can
20 see the firing pin come back. I don't know if you can see
21 that, but you can see the firing pin come back and move for-
22 ward ever so slightly. What you have to look for is this red
23 cocking indicator. Because it's a blocked striker system,
24 that means that the trigger is free to move on this rifle.
25 This rifle, if the trigger is held back by the trigger guard,
the stock or whatever, and/or in this rifle if the sear is

Linde - Direct

70

2 held down for whatever reason, if it's binding in the housing
or something is wedging it, this rifle will fire off safe.

4 Q. Why don't you explain that again, what you did Mr. -- what
you did and what you saw.

A. Okay.

6 Q. What positions --

7 A. What I was explaining here is a fire safety release on the

8 Winchester Model 70, and all I'm saying is that this trigger,

9 when the rifle is in the on safe position --

10 Q. Mr. Linde let's just show the jury what you saw. You have

11 the safety in what position now?

12 I had this in the full safe position.

All right.

14 Okay, and all I'm showing in this is that in the full safe

15 position, if that trigger was wedged all the way back for
whatever reason and I kick it off safe, it will fire safe

17 release.

18 All right.

20 A. Okay, I continued to go through the cycles and I checked
the -- how positive the safety is, how positive is it in the
full on safe, how positive is it in the center, how positive
is the safety as we discussed this morning. And I take and
check it in each individual places, like there I just pulled
it, released the safety and it fires.

So you had the safety in the mid position. Is that right?

Linde - Direct

71

A. I put it in here. This is a Winchester Model 70 and there is the mid position.

4 Q. All right, but --

5 A. But I can just easily position it right there, pull the

6 trigger -- if I pull the trigger I can hear it click and I release it and it will fire.

7 Q. Now is the gun tricking in that situation?

8 A. Yes, in that situation it is because I can pull it to a

9 position here, pull it and release it and it will trick. This

10 was what I was alluding to earlier. The Model 70, the toler-

11 ances from the bolt and the tolerances in the mechanism

12 because you're working your safety in two different groups.

14 You're working it -- after you safety is up here the rest of it relies on your sear and trigger down here, but it's harder

16 to get the dimensions to come right where you want them. Now there's the normal -- there's the normal intermediate or unload

17 position. Now you see when I pull the trigger and release the

18 trigger nothing happens. If I go to here I can operate it,

19 pull the trigger, release and it will fire.

Q In that situation the gun was tricking.

A. Yes, it was.

Q This is a Winchester Model 70.

24 A. Yes, it is.

25 Q Are there any alterations on this rifle?

A No, there are not.

Linde - Direct

72

Q. Now did you also examine the Ruger 77 safety and fire control?

A. Yes, I did. I went through it extensively, took it apart and checked again to see how the parts functioned and how they were manufactured.

Q. Okay. What did you see about the type of safety that this Ruger 77 had?

A. The Ruger 77 is a two position safety with a bolt lock.

Q. And what did you see about what the safety blocks?

A. The safety is blocked on the Ruger 77 by the trigger.

There's a trigger block in front of the trigger, as when I drew the demonstration yesterday.

Q. Now could you explain to the jury what you saw and what you performed in terms of unloading the Ruger 77?

A. If I have a live round in the chamber and I go to unload it, I have it on the safety position -- again, the Ruger 77 has a bolt lock.

Q. What do you have to do -- what did you observe? To raise the bolt what do you have to do?

A. On the Ruger 77 to raise the bolt I have to move the safety to the fire position. I can raise the bolt, I cannot put the safety back to the safe position. So the safety stays in the fire position. If I bring the bolt all the way back, I can hardly get it to safety, but even if I can get at it you cannot put the safety in the on safe position. So this would

Linde - Direct
73
be your unloading on this.
2 Q. All right, now when you're loading this rifle, show the
3 jury what you did.
4 A. Okay, on loading -- let's go through the loading. On
5 loading I'd load the cartridges in the magazine
Q. And you're pushing this bolt home now.
A. Let me start from empty.
Q. All right.
A. Okay, I want to load it. It's been fired. I cannot put
the safety in the on safe position after it's been fired. open it
up, or raise the bolt handle. I cannot put the safety
in the on safe position. Bringing the action back, I still
cannot put it in the on safe. I load the cartridges in the
magazine box, feed a live cartridge into the chamber, I still
cannot put it on safe. I put the bolt handle all the way
down, I can put the rifle in the on safe position.
Q. And when you put the bolt all the way down is your hand
approaching the trigger?
20 A. Yes, it is.
Q. And at that point the gun is in the fire position.
A. Yes.
Q. Is that right?
24 A. Yeah, you're coming down with your hand and your finger is
25 heading towards the trigger with a force in the downward
direction.

Linde - Direct

74

2 Q. The same situation that you demonstrated with regard to
the Winchester Model 70?

4 A. Yes, it is.

Q. All right. Now what about when you're unloading that
5 rifle?

7 A. Okay, I'll go through the unloading. It's loaded, I have
it on safety, I cannot raise the bolt handle. I have to move
9 the safety to the fire position, open the bolt, pull back. I
still can't get the safety on the on safe position. Continue
10 to pull back and I eject a round.

11 Q. And again, you cannot unload it except when the safety is
12 in the fire position. Is that right?

13 A. That's correct.

14 Q. Now did the Ruger 77 have a bolt lock?

15 A. Yes, it does.

16

17 Q. And so that meant to raise the bolt you had to put the
18 safety in the fire position. Is-that correct?

19 A. Yes, you do.

20 Q. And then once you put that safety in the fire position you
21 couldn't get it back in the safe position. Is that right?

22 A. That's right.

23 Q. Now did you also examine the Weatherby Mark 5?

A. Yes, I have.

25 Q. Is that an expensive rifle?

A. This is very expensive, this is in a class way above

Linde - Direct

75

1 either the Winchester or the Remington.

2 Q. How much more expensive is it?

3 A. It's just almost twice as expensive.

4 Q. Okay. Now what kind of safety does the Weatherby Mark 5
5 have?

6 A. The Weatherby has a two position safety with a bolt lock
7 and it blocks the firing pin.

8 Q. It only blocks the firing pin?

9 A. Only the firing pin.

10 Q. Now you mentioned that the Ruger 77 blocks the trigger.
11 Does it only block the trigger?

12 A. Yes.

13 Q. And you mentioned that the Winchester 70 blocks the firing
14 pin. Does it only block the firing pin?

15 A. That's correct.

16 Q. All right. Now why don't you show the jury what you did
17 when you were seeing how this Weatherby Mark 5 could be loaded?

18 A I'll start again with the rifle in the fired position. If
19 you want to load it you cannot put the safety on when the
20 rifle's been fired. You raise the bolt handle, you cannot put
21 the safety on. You bring the bolt back, load your cartridges,
22 you cannot put the safety on. Bring it forwards, you cannot
23 put the safety on. If you bring it down, full cocked posi-
24 tion, you can move the safety to the on safe position.

25 Q. It's only then when you brought the bolt all the way home

1 when the gun is in fire and you've had to turn that bolt
down right here by the trigger guard that you can then put the
gun on safe.

4 A. that's correct, and when you get it on safe it has the
bolt lock so you cannot raise the bolt lock.

6 Q Okay, and that feature with regard to the loading of the
rifle is the same that's present with the Ruger 77 and the

8 Winchester Model 70.

9 A. Yes.

10 All right, now why don't you show the jury what you observed
with regard to unloading it?

12 A. Okay. To unload it, because it has the bolt lock, you
have to move the safety to the fire position. With the
safety in the fire position you can raise the bolt handle. You
cannot put the safety on after you've raised the bolt handle.

15 If you bring the bolt all the way back you can eject the

16 cartridge.

18 And again, the safety always has to remain in the fire
position when you're unloading this Weatherby Mark 5. is
that correct?

A. That is correct.

22 Q Here's the cutaway here, this is the Model 700. Now I think
we've already covered very quickly -- the Remington

24 Model 700, as the jury knows, has a two position safety with
a bolt lock. Is that right?

25 A. Yes, it does.

Linde - Direct
77

1 Q. Now that means that to raise the bolt you have to push

2 A. Let's go right through the same sequence as we followed.

3 Q. All right.

4 A. The rifle is in the firing position, the firing pin is

5 forward. I cannot put the safety in the on safe position. If

6 I raise the bolt handle I can put the safety in the on safe

7 position.

8 Q. Which is something that you could not do with the Ruger 77?

9 A. That's correct.

10 Q. Could you do it with the Weatherby Mark 5?

A. No, you cannot.

12 Q. Could you do it with the Winchester Model 70?

13 A. No, you cannot.

14 Q. All right.

15- A. Now it's in the same position. I bring the bolt back,

16 load my rounds in the magazine, feed it forward -- it's still

17 in the safe position -- come down with my hands heading

18 towards the trigger, the rifle is still in the safe position.

19 Q. So with this Model 700, when you're loading this rifle and

20 you're having to turn that bolt down with your hand approach-

21 ing the trigger, you can have the safety in the safe position.

22 A. That's correct.

23 Q. And that is something that you could not do with the

24 Winchester 70, you could not do it with the Ruger 77 and you

25 could not do it with the Weatherby Mark 5.

78

Linde - Direct

A. That's correct.

Q. All right.

A. Now to unload the live round in the chamber -- to unload

4 I'd move the safety forward to the fire position, raise the

5 bolt, move the safety to the safe positions unload the
cartridge, pull it back with the safety on. Then I could feed
out the other two or three in the magazine,

7 click them out and that rifle's unloaded.

10 Q. So with the Remington Model 700, when you're either

11 unloading or loading you can have the gun in the on safe posi-
tion.

12 A. in the on safe position.

14 Q. Now this is a 1975 Remington Model 700.

A. That is correct.

15 Q. And with regard to these other models you're talking about

17 what you observed in 1975.

18 A. That is correct.

Now I think you've touched on it briefly, that in examin-

20 ing these other competitors rifles and their safeties and
fire controls, you did perform a trick test on some of these

21 competitors like you did for this Winchester Model 70 here?

22 A. Yes, on all of them.

24 And these were unaltered guns. Is that right?

25 A. That's correct.

Q. And I think you've shown that this Winchester 70 would

79

Linde - Cross

trick. is that right?

A. Yes, I did.

Q. Did you observe any other models other than the Winchester
4 70 for example, where you found a gun that would trick?

6 A. Yes, we did.

Q. And what were those?

A. Well, I observed a Browning that would trick.

9 Q. All right.

A. And I know there were some others but I can't remember
them.

Q. Some of the Springfield military rifles perhaps?

A. I don't know.

All right.

A. But there were other rifles that would trick.

MR. SHAW: No further questions.

(CONFERENCE BETWEEN ATTORNEYS, AFTER WHICH:)

MR. SHAW: All right, no further questions at this time.

CROSS-EXAMINATION

BY MR. MILLER:

Q. Now Mr. Linde, the first question I have is, isn't it true
that E. I. DuPont has a financial interest in the outcome of
this case?

24 MR. HEADLEY: Is there some way you could speak into
the mike?

80

Linde - Cross

MR. MILLER: Well, they put it up here again.

MR. HEADLEY: If you will please, so we can hear.

3 BY MR. MILLER:

4 Q. Isn't it true that E. I. DuPont has a financial interest

5 in the outcome of this case today?

6 A. I would think they would.

7 Q. And you're an employee of DuPont, correct?

8 A. Yes, I am.

9 Q. You mentioned something -- I didn't quite pick up on it

10 when you were first testifying with John about interviewing

11 with DuPont and then selecting a job at Remington after 11

12 minutes or something like that?

13 A. Yes.

14 Q. What -- I don't understand, if you interviewed with

15 DuPont, was there a relationship among them at that time?

16 A. Well yes, the DuPont recruiter, if requested, would send

17 the resumes on to Remington.

18 I see, and when was this?

19 A. This was 1965.

20 Q. And you worked for either Remington or DuPont since that

21 time?

22 A. Yes. Remington was a separate company with controlling

23 interest but was an independent company until like 1980 or '81.

24 Q. It no longer is an independent company, is it?

25 A. It's operated as an independent group, yes.

81

1 Q. But it's wholly owned by DuPont.

2 A. Yes, it is.

3 Q. Now your position now is, as I think you said, manufac-
4 turing and technical manager for engineered parts with FFP?

5 A. Yes.

6 Q. What does FFP stand for?

7 A. Finishes and fabricated products.

8 Q. And you've been there I think since oh, around this
9 time-last year. Is that right?

A. Yes, I have, that job.

11 Q. Why is it that a DuPont employee who hasn't been at
12 Remington for over a year and doesn't know their current pro-
13 cesses or procedures is called upon to testify in a case
14 involving Remington?

15 A. Because of my knowledge and background in this case.
16 You've testified in other cases of this nature before in
17 which it's been alleged that a Model 700 bolt action rifle
18 fired with release of safety, haven't you?

19 A. Yes.

20 Q. How many cases have you testified in either by way of
21 deposition or by way of trial testimony in which that's been
22 the claim?

23 A. I couldn't say for sure because each one of the cases was
24 a little different.

25 Q. What I'm wondering is, is of the cases in which that has

Linde - Cross

82

been the claim, that the rifle fired, the Model 700 we'll
confine it to.

3 A. Yes.

4 Q. Fired when the safety was pushed off, when the safety was
5 released.

6 A. I think it would be either two or three cases.

7 Q. Does that include this one?

8 A. No. that would not include this one.

9 Q. Now is it Remington's position -- so we can get this clear
10 at the outset, is it Remington's position that a Model 700
11 which is in factory condition will not fire on release of
12 safety ever?

13 A. If it's in factory condition, yes.

14 Q. Now in your testimony I think you said that you were
15 research manager from 1974 to 1978. Is that right?

16 A. Yes, I was.

17 Q. In 1975 you were assigned responsibility for the bolt
action rifle line at Remington, that's all model bolt action
19 rifles.

20 A. That's right.

21 And you were assigned that duty for the purpose of looking
Q
22 into problems which occurred in that line and for purposes of
23 remedying those problems. Isn't that right?

24 A. No, it's not.

25 Q. Wasn't it in early 1975 -- I believe it was February from

83 prior testimony that Remington first learned or claimed it
2 learned of the trick condition as they call it in the Model
3 600?
4 A. Yes.
5 Q. And didn't they also have knowledge as of 1975 that the
6 Model 700 rifle would fire upon release of safety?
7 A. What knowledge?
8 Q. Had Remington been told in 1975 by anybody that Model 700
9 rifles were firing upon release of safety?
10 A. We never had a problem with the Model 700 like the trick
condition in the 600.
12 Q I'm talking about FSR, firing on release of safety.
A. Yes.
14 Q I'm not talking about an intermediate position. Are you saying
that Remington had no knowledge in 1975 that the Model
15 700 was alleged to have fired upon release of safety?
16 A. We had cases where the 700 had alleged to fire when safety
17 was released, yes.
19 Q So you had knowledge of complaints made.
20 A We had some complaints, yes.
21 Q. And in fact you admitted those complaints in your request
for admissions, didn't you?
23 A Yes.
24 Q And you also admit Mr. Sperling -- you weren't here for
his testimony but you'd been told that he'd admitted that as

1 of 1975, even before, Remington had knowledge of complaints of
2 FSR conditions in Model 700 bolt action rifles.

3 A. I don't know that.

4 Q. You had a 1973 process record change authorization, didn't
5 you, that indicated there were 22 complaints in the field in
6 1972 and four more so far in 1973, that people were having
7 instances in which the Model 700 fired on release of safety?

8 A. That's what I understand, yes.

9 Q. -Okay. You also had customer complaints, didn't you, that
10 came in when they sent the rifles back to Remington with a
11 letter and the rifle saying here's my rifle, it fired when I
12 pushed the safety off, take a look at it?

13 A. Yes, we did.

Q. And you did get examinations back from them, didn't you

A. Yes, we did.

16 Q. And those gun examination reports from that time period,
17 1975, even anything from before 1978 are no longer around, are
they?

A No, they're not.

Q. That's because of Remington's record retention or
document destruction policy, whichever one you want to call it.

22 A. Any major corporation has that.

23 Q. Remington has one too, right?

24 A. That's right.

25 Q. DuPont has one too?

Linde - Cross

85

2 A. That's right.

3 Q. You also did a study in early 1975, didn't you? When I

4 say you -- I run into the same problem Bill does sometimes, I

5 mean Remington throughout this, okay, so please take my questions
that way.

7 A. Okay.

8 Q. In 1975 didn't Remington do a study which showed or tall-

9 ied the customer complaints in the field as to FSRs on bolt

10 action rifles which they had complaints of?

11 A. I don't understand your question.

Q. Okay, did Remington do a study in early 1975 to determine
13 what kind of complaints they had been receiving on FSRs on
Model 700 rifles and other bolt action rifles?

14 A. Yes, I believe that was in the marketing area.

15 Q. Have you seen a copy of that study?

16 A. I'm not familiar with what you're talking about, no.

17 Q I'm going to hand you what's been marked as Plaintiff's

19 Exhibit K-5.

A. Oh. okay.

Q. Now have you seen a copy of that before?

MR. HEADLEY: Wait just a second while we get our

23 MR. MILLER: K-5.

24 BY THE WITNESS:

25 A. Yes, I'm sure I read this.

Q. Who are the individuals identified in that report?

1 A. Identified -- it's to E. F. Barrett from G. W. Martin. 2

Q. Who was G. W. Martin?

3 A. That was George Martin, he was a marketing service repre-
sentative who was stationed at the Ilion plant.

5 Q. And who was Mr. Barrett at that time?

6 A. He would have been, in 1975, the director of research.

7 Q. So the report came from someone in marketing to someone in
research which is where you were. Is that right?

9 A. That's correct.

10 Q And so it was not entirely a marketing report.

11 A. No, E. F. Barrett was -- he was the director of research

12 in Bridgeport.

13 Q. And in fact doesn't that report look at information that

14 "came from other divisions besides research such as the process

15 'engineering add control department, gallery proof section, the

16 harmed service section, it looks at customer complaints that

17 were coming into those sections of FSRs and also looked at the

18 FSRs that were occurring in Remington's own factory, doesn't

19 it?

20 A. Yes, in the -- as far as the safety malfunctions found in

21 the gallery we have a complete listing of all gallery malfunc-

22 tions which is, you know, reams of computer data as you know.

23 There's a number of complaints coming from armed service, we

24 keep a complete log of all the complaints, and the number of

25 actual justified complaints then, that would be the individual

Linde - Cross

87

1 reports. So the armed service usage report, yes. All the
reports sold, we have reports on that.

3 Q. All right, so it's coming from several sources in which
rifles came into Remington or rifles were already at Remington
5 in the manufacturing process in which it was alleged the rifle
fired on release of safety. Is that right?

7 A. No, this is just the -- this is just a letter stating that
8 they are looking into three different areas for information.

9 Q. Okay, let's take the areas one at a time. What's the first
area?

11 A. Okay, the computer.

12 Q. All right.

13 A. The second area is all available gunsmith call reports.

14 Q. And the third?

15 A. Is armed service usage report.

16 Q. Now if you go down a little bit below that, isn't there

17 another listing of three areas they talk about?

18 A. Then the computer report is broken down into three parts.

19 Q. All right, that's what I'm interested in. What is the first
of those three parts?

21 A. Safety malfunctions found in the gallery on new rifles.

22 Q. Now those are safety malfunctions found in Remington's own

23 gallery on rifles that are getting ready to be shipped. Is
that right?

25 A. No, those are safety malfunction found on the gallery of

Linde - Cross

88

rifles after they've been tested in the gallery.

Q. Okay, and the gallery is one of the later procedures in the manufacture of a rifle, isn't it?

A. The gallery is where we test it.

Q. Right.

A. And this is if you had a malfunction, this is where you would expect to find it.

Q. Okay. If you turn back a couple of pages, you'll find the results of that gallery test. It might be two, three pages back. Safety malfunctions gallery is what it is called.

A. Yes.

Q. And were you getting firings upon release of safety in the safety malfunctions gallery in 1975 and before?

A. Could you help me with this? I don't know which one is the 700.

Q. This line is the 700.

A. Okay, and is this 1973?

Q. Yeah, it's kind of hard to read. That's the best copy.

It's '73, '74 and '75.

A. It shows in 1973 we had -- if that's FSR we had nine FSRs.

Q. It is according to the code up into the back. There, you can read it there, it's kind of -- FSR.

A. Okay, it says nine FSRs in 1973.

25 Q. All right. Now if you go to -- if you go to the next page you'll see a code, and under the code 109 is fires when safe

Linde - Cross
89

1 is pushed off. Right?

2 A. Yes, it is.

3 Q. And if you go to the next page you will find the number of
4 complaints, and again your copy is hard to read but I'll tell
5 you that's what it says. And is that -- the second area
6 they're looking at, the number of complaints coming into armed
7 service, and again it's the third line from the --

8 A. Well, I'm just having a problem with the number of com-
9 plaints. Okay, if you say it's armed service --

10 Q. it is.

11 A. Okay, and it's we're talking about 109, you're talking
12 about fire safe release and here you are, '74, '73, '72, '71
13 and '70.

14 Q. How many in each year?

15 A. '74 it shows 24, 12 in '73, 22 in '72, it was 13 in '71,
16 12 in '70.

17 Q. Now these are not justified complaints, right, or verified
18 complaints?

19 A. These are what?

20 Q. Those are just complaints, right?

21 A. That's what it says.

22 Q. If you go to the next page though, it's kind of mixed up,
23 don't we have the number of justified complaints?

24 A. Yes, it says number of Justified complaints.

25 Q. And even there it's been circled for the worst test situa-

Linde - Cross

90

tion under 109. How many do you have each year there?

2 A. Okay, in '74 -- these are guns coming back to customer

3 repair -- we have '74, 17; '73, 12; '72, 22; '71, 13 -- pardon

4 me '71, 13; '70, 12.

5 Q. And those are justified complaints according to the head-

6 ing.

7 A. That's right.

8 Q. So can't we agree then that in addition to just having

9 complaints prior to 1975, Remington by its own figures has

10 Justified complaints of rifles coming back into the field with

11 an FSR condition.

12 A. What that says is that there were rifles that came into

13 customer repair that had been in the field and been used that

14 would fire when the safety was released. It doesn't say the

15 reason why.

16 Q. You do have some documents you can go to to determine the

17 reason why, don't you? Or you did. The gun examination

18 reports.

19 A. Yes.

20 Q. But those no longer exist for this time period, do they?

21 A. I don't know. I wouldn't think so.

22 Q. Okay. There are some gun examination reports from a later

23 time period beginning in say '78 and going up through '82,

24 early '83 which are still around, right?

25 A. Yes, as far as the documents that, you know, when they're

Linde - Cross

91

1 -- or how long you hold them, there's a schedule on that and
2 it's common in industry. Now I don't know what the schedule
3 is, so when you ask me for a specific time, when do we -- how
4 long do we keep an item though, I'd have to go to the schedule.

5 Q. It's three years. The reason we have them in this case is
6 we've been able to get them from some other sources. Okay,
7 but they go back to '78. Now on those gun examination
8 reports, those show if Remington found a problem with the
9 rifle, don't they?

10 A. Yes, they do.

11 Q. They'll tell you if there was something wrong with the
12 rifle that caused FSR.

13 A. That's right.

14 Q. Okay. Have you seen any gun examination reports from '78,
15 '79, '80 '81 in which the claim is the rifle fired on release
16 of safety? Remington has looked at the gun in their gun
17 examination committee and they found nothing wrong with the
18 gun in terms of broken parts and gun oil or whatever, adjust
19 ments or anything else they blame FSRs on and in the report
20 they did say cannot duplicate customer complaint.

21 A. That's right.

22 Q. You've seen some of those, haven't you?

23 A. Yes, I have.

24 Q. How many of those have you seen?

25 A. I don't know.

Linde - Cross

92

1 Q. Quite a few over a period of time, haven't you?

2 A. I've seen a number, yes.

3 Q. Those are the types of reports that Remington does for a

4 reason, isn't that right?

5 A. Yes, we sure do.

6 Q. And you do that because you want to know what's causing

7 the FSRs.

8 A. That's right.

9 Q. And in a number of those reports you find no cause for the

10 FSRs such a broken parts, gun adjustments or any other tradi-

11 tional causes that you claim cause FSRs.

12 A. That's right.

13 Q. And you were on the distribution list for these gun

14 examination reports when you were at the research division in

15 Ilion, weren't you?

16 A. When I was in research no, I wasn't on the distribution

17 list.

18 Q You eventually were on the distribution list, weren't you?

19 A. Yes, I was.

20 Q. An this is one of the sources of information Remington

21 went to to determine back in 1975 that they had any justified

22 complaints of FSRs in the previous five years, back to 1970.

23 A. That's right.

24 Q. And they found justified complaints.

25 A. They found justified complaints

Linde - Cross

93

Q. Okay.

2 A. -- in respect to the fact that they had received rifles
3 back for customer repair, to be repaired, that was firing when
4 the safety was released.

5 Q. All right. I'm going to hand you a couple of files with
6 exhibits in them. I'll represent to you that those files con-
7 tain various gun examination reports from the period we have
8 them beginning in 1978. What I'd like you to do is go through
9 each--- well not each one, we'll just pick a few out. Just
10 start with the first file taking two or three, I suppose that
will be all we'll do.

12 MR. SHAW: Could we see that first before the witness
13 goes through it?

14 MR. MILLER: Sure.

15 MR. SHAW: You haven't --

16 MR. MILLER: Those are the ones I identified for you
17 a couple of weeks ago.

18 MR. SHAW: Has he got these by exhibit number or any-
19 thing?

20 MR. MILLER: I'm going to identify them by exhibit
21 number as he goes through.

22 MR. McDONALD: Those are the same ones I told you
23 about.

24 MR. SHAW: May we approach the bench for a moment,
25 Your Honor?

Linde - Cross

94

1 THE COURT: You may.

2

BENCH CONFERENCE

3 MR. SHAW: First, Your Honor, we just want to make

4 the objection which we have made before, that we object to all

5 of this allegedly similar incident information without laying

6 the proper foundation. Additionally, I guess we'll have to

7 say we've got a bit of a problem here in that he's pulled out

8 all of these and we don't have them yet by exhibit number in

9 terms of having them all pulled out at this moment. If he's
just going to start pulling them out --

11 THE COURT: Aren't they all dated?

12 MR. SHAW: Excuse me, Your Honor?

13 THE COURT: They're all dated I guess, aren't they?

14 MR. MILLER: They're all dated.

15 THE COURT: And you say they found some from this --

16 MR. MILLER: I gave them a list, Your Honor, when you

17 ordered me to.

18 MR. McDONALD: You can say dates.

19 MR. MILLER: Yeah, I can say dates too, sure.

20 THE COURT: Okay.

21 MR. SHAW: If we could have a moment to pull them

22 out. If you're going to start whipping them out and showing

23 them to him --

24 MR. MILLER: I'm not going to go through all of them,

25 I'm just

Linde - Cross

95

1 MR. SHAW: I know that, but that makes it even more
2 of a problem if you're going to just start selecting them here
and there. We need a --
4 THE COURT: Are they arranged chronologically?
5 MR. MILLER: Yes, they are.
6 THE COURT: Arranged chronologically. What do you need the
time for now?
8 MR. SHAW: Just to get the exhibits out, Your Honor, and go
through them they're not all in sequence.
10 THE COURT: they are here, pulled one out already I
11 think, put that back in.
12 MR. SHAW: Do you have the exhibit number on it?
13 MR. MILLER: I'll go through each number.
14 MR. SHAW: All right.
15 THE COURT: proceed.
16 END OF BENCH CONFERENCE
by MR. MILLER:
18 Q Now what I'd like you to do just -- we'll start with a few
at the top and just go. I won't go through all of them. So
20 John has an opportunity to find them we need to identify
them one by one.
22 A. What do you want me to do, just
23 Q. Pull the first file out.
24 A. I'll just go through and pick any file, is that what you
25 want me to do?

96

Q. We're just going to do them in order so it doesn't mess him up.

4 A. Well, why don't I just pick one or--

Q Well--

6 A. That's what I understood you wanted we to do.

7 Q. It doesn't make any difference to me.

A. I don't care, I don't know, so --

9 Q. Let's just pick -- John's having trouble.

10 A. Here, let's just pick this one. It says GER number 099, 1979

MR. MILLER: John, do you have that one?

13 MR. SHAW: No, we need the exhibit number that's on

14 it. That's how we're doing this, they have exhibit numbers.

MR. MILLER:

16 Q There are three things, he needs the year of the GER, the GER number, and then the exhibit number which you'll find in the front of the --

19 A BB 30?

20 MR. SHAW: No.

21 MR. HEADLEY: Mr. Miller, why don't you just tell us or read it into the record?

23 MR. MILLER: Let me just hand it to you, that'll be a little easier.

25 MR. SHAW: Okay.

THE WITNESS: I guess I just don't feel like getting

Linde- Cross

97

a random sample, picking out the first one is all.

BY MR. MILLER:

All right, I'll take the first one, the first file and I'll just pick random. Okay? it may cause a little trouble but we'll do that. all right, the very first one is GER 191 in 1979.

MR. HEADLEY: the exhibit number.

MR. SHAW: Just say the exhibit number please.

MR. MILLER: I'm looking for the exhibit. I can find the exhibit number on that one just as good as the second one. All right, this is Exhibit #022. do you have that one?

MR. SHAW: Now tell us the date.

MR. MILLER: 1979, GER 68

BY MR. MILLER:

Q Would you take a look at that, please? Is that one of those GERS that indicates that Remington has done its tests on a rifle that was alleged to have fired on releasing safety, and that after doing all their tests they can find nothing wrong with the rifle and say unable to duplicate customer complaint?

A excuse me, it's a gun examination report. I'll go through it.

Q. All right. why don't you give me the transparency. We'll put it up and let the judge see it.

A. I don't know where it is.

Linde - Cross

98

Q Here, give it to me and I'll find it. Give it to me.
Thank you. it's right there. Now you wanted to tell me
what that was, so go ahead and tell me.

A. Okay, it's the gun examination reports of a Model 700 BDL.

MR. HEADLEY: The microphone. The mike's not working.

UNIDENTIFIED MALE SPEAKER: Yes, it is. Ready?

MR. MILLER: I'm ready.

THE WITNESS: Is the mike okay?

MR. HEADLEY: Speak into the mike, a little closer to the mike.

THE WITNESS: I've got Kind of long legs.

BY THE WITNESS:

A it's a gun examination report, #68, it says the general
condition of the rifle is good. It goes on and defines the
rifle. On the right side it lists the model, the date, who
it's from, the address, the gun number, the code, the gauge
and caliber, who checked it and who went through it.

Q Okay, and what does it say with respect to complaint?

A it says:

Rifle discharged two times when safe was moved to off
position to remove shell from chamber. shot hole in
floorboard of truck and second time shot chunk out of front
porch.

Q And under comments?

A. It says, "Unable to duplicate incident."

Linde - Cross

1 Q Now in these gun examination reports if Remington had

2 found anything wrong with the gun wouldn't they have
typically put that down there under the comments section?

4 A. Yes, they would.

5 Q okay, and since there's nothing there can't we assume that
there's nothing wrong with that gun other than it fired on
7 release of safety?

8 A. No, we can't assume that.

9 Q I thought you said if Remington found something wrong with
10 the gun to cause the FSR such as adjustments, broken parts,
11 gum up, they'd put that down there, right?

12 A. That's right.

13 Q Can we assume that they then found no causes such as
14 broken parts, gum up or adjustments, the three typical ones
15 they use?

16 A. That's right.

17 Q All right. Now if you'll give me a few more trans-

18 parancies we'll just separate it out here and we'll do it
this way for the next one or two. how I'm going to refer you
next in there and I think you'll find maybe one or two pages
back a letter from Mr. Kenneth L. Arnold dated December 18th, 1978.
22 Each of these files contains the correspondence --

23 A. Just a minute, which letter are you showing?

Q. December 18th, 1978, from Kenneth L. Arnold to Remington.

25 A. Okay, I see a letter here of March 16th. Well this is

Linde - Gross

100

1 December 18th is the letter you have?

2 Q. Yes, that's the first one I believe. each of these files
3 contains the correspondence between Remington and the customer
4 about the rifle.

5 A. Yes.

6 Q. Have you had an opportunity to read that letter?

7 A. Yes, I have.

8 Q. All right. Would you read the underlined portions to the
9 jury

10 A. Yes, I will.

11 Both times the safety was pushed forward to remove
12 the shell from the chamber when the discharge
13 occurred. The trigger was not touched in either
14 incident. Have carried the gun to three different
15 gunsmiths and dealers concerning the matter. All
16 believe the trouble lies in the trigger.

17 Q Thank you. The next letter I'm going to turn you to --
18 take your time to read it again -- is a January 9th letter
19 1979, from Remington to Mr. Arnold.

20 A. Yes.

21 Q. that letter, of course, is asking Mr. Arnold to return his
22 Remington, correct?

23 A. Yes, it is.

24 Q. All we needed off that letter. the next letter I'm going
25 to refer you to is the March 16th, 1979, letter to Kenneth L.

Linde - Cross

101

1 Arnold from James A. Stekl supervisor of firearms and pro-
2 ducts service. first, who is Mr. Stekl?

3 A. Just a minute, which letter are you on? March 16th?

4 Q. March 16th, 1979.

5 A. Okay, can I read the letter first?

6 Q Sure, go right ahead.

7 A. Okay, thank you.

8 Q. While you're reading it, I'll just go ahead and read it to
9 the jury. that might shorten things up a little bit. Mr.
10 Arnold.

11 Dear Mr. Arnold: An examination has been completed
12 of your Model 700 ADL 24-06 caliber rifle, serial
13 number A6427943, which allegedly fired when the
14 safety was pushed to the off position. Our experts
15 thoroughly examined the rifle and trigger assembly
16 and could not duplicate the incident you had des-
17 cribed. All parts tolerances and dimensions were
18 found to be normal including the sear connector
19 engagement. Also, factory seals were intact and the
20 trigger adjustment screws, indicating no alterations
21 were made to the rifle outside our company. Based on
22 our findings, Remington Arms Co.; Inc. cannot accept
23 any liability or responsibility for this incident.
24 we can only assume that the safety was pushed to the
25 off position--

Linde - Cross

102

Excuse me--

2 We can only assume that as the safety was pushed to
3 the off position contact was made with the trigger.
4 when the safety is in the on safe position the sear
5 is lifted off the trigger connector and at this time
6 very little effort is required to pull the trigger
7 rearward, allowing the connector to be removed away
8 from under the sear, and in this condition upon mov-
9 ing the same into the off position, the rifle will
10 fire. We trust that we have clarified the circum-
11 stances that could possibly have caused the acci-
12 dental firing, and as a gesture of good will, even
13 though there is nothing wrong with your present
14 trigger assembly, we can replace it with another
15 assembly at no charge to insure that your faith in
16 the rifle is restored, or the rifle can be returned
17 as received. We will await your decision and reply.
18 thank you for having afforded us this opportunity to
19 examine your rifle and be of service.
20 Okay, have you seen letters like that before?
21 A. Yes, I think you left off one thing on this.
22 Q what did I leave off?
23 A. that the blind copies went to the -- essentially the gen-
24 eral manager of one company; to the head of the products ser-
25 vice group, Earl Larson; to the head of the marketing, Prizer

Linde - Cross
103

1 I think is the head of the marketing; Chesnel, Sperling and
2 Cole.

3 Q Right, so pretty much everybody with any authority at
4 Remington sees these letters.

5 A. Yes, and you can be assured that that rifle was sure
looked at.

7 Q. Okay. Isn't this a form letter that's used in almost all
8 of these gun examination reports to reply to the customer?

9 A I don't know that.

Q Now in each of these instances the trigger assembly is removed
if the customer asks for it, correct? If the customer
12 asks that it be removed.

13 A. If he asks that it be removed?

15 A. Yes, we would remove it.

16 And it's replaced with an entirely new assembly.

17 A. If he asks us to do that, yes, we would.

Q And the other assemblies that are removed are nowhere
around. Is that right?

20 A . I wouldn't think so, I would think they would be saved.

21 Q. Oh, they would be saved?

22 A. If you removed them for some reason and you were looking
23 at it, and if there was ever some kind of incident, I would
24 think that you'd want to safe that safety.

25 Q. Are they still around at Remington?

Linde - Cross

104

A. I have no idea.

Q. I'll hand you what's been marked as Exhibit #075, John.

It's a 1981 GER #599. Do you have it? Again, is this another gun examination report?

A. Yes, it is.

Q. And go ahead and take your time. My questions will be is it the same as the last one, in that fires when safety is released is the complaint, the comment is "unable to duplicate customer complaint".

A. Yes, just a couple of things added on.

Q. What are the other things that are added?

A. Just the trick test and the horizontal sear engagement 17,000ths, which indicate that it was on an optical comparator or they wouldn't have known that.

Q. So it was all right on the trick test?

A. That's what it says.

Q Okay.

A. And it says -- obviously it was on an optical comparator where they checked everything.

Q. And the optical comparator test came out within Remington's specifications, didn't it?

A. Yes, it did.

Q. Is there anything noted in that gun examination report about something being wrong with the rifle either in terms of adjustment, broken parts, gum up -- the three things that

Linde - Gross
105

1 Remington usually falls back on?

2 A. I don't know if that's the three things, but there's
nothing on this report, no.

4 Q. Now we'll go through one or two letters here and then

5 we'll leave the gun examination reports. We'll go to a letter
dated December 7th, 1981, in handwriting from -- I think it's
7 Mader if I read it correctly, or Madden, did you

8 find that in there?

9 A. Yes, I have.

10 Q Okay. I'll read it while you read and that way we kill two
birds with one stone, okay?

12 Dear Sir: I have a Remington Model 700 ADL which

13 will go off sometimes when you take it off safety.

14 It does not do it each time you take it off safety,

15 but you never know when it's going to go off. it

16 almost shot a fellow hunter in the foot. Do you want

17 this gun returned to you for repair? This gun is

18 eight years old, But it's been shot less than 100

19 times. thank you very much for your cooperation.

20 Is that a fair statement of what it says?

21 A. Yes.

22 Q How does Remington -- my question, I guess, is -- if

23 you'll turn back to Remington's response of January 28th,

24 1982, a two page letter. I'll show you the first page. I'll

25 go ahead and read it as you're reading it again.

1 Mr. Lewis F. Maden. Dear Mr. Maden: The examination
2 has been completed on the Model 700 ADL Winchester
3 caliber rifle, serial number 6596747 which you
4 returned to us when it allegedly fired as the safety
5 lever was moved to the fire position. The returned
6 firearm which was produced in October of 1968 has
7 been examined by our firearms experts who report that
8 it contained our high pressure screw test, gallery
9 test and final inspection stampings indicating it had
10 successfully passed all our necessary tests prior to
11 shipment. the general condition of the gun appeared
12 to be fair and it was noted that sling swivel studs
13 and scope bases had been added after it originally
14 left our factory. In addition, it was noted that the
15 stock contained slight mars. In going over the indi-
16 vidual parts we found the head space, recoil
17 shoulders and chamber all to be normal. Examination
18 of the rifle and trigger assembly could not duplicate
19 the incident that was described. All parts toler-
20 ances and dimensions were found to be normal, includ-
21 ing sear connector engagement. Also, factory seals
22 were intact and trigger adjusting screws, indicating
23 that no alterations were made in the trigger outside
24 our company. Trigger pull was within our specifica-
25 tions at five pounds. Based on our findings,

Linde - Cross

107

1 Remington Arms Company, Inc. cannot accept any lia-
2 bility or responsibility for the incidents. it is
3 possible that while you were moving the safety lever
4 from the safe position to the fire position, you at
5 the same time inadvertently contacted the trigger.
6 when the safety lever reached the fire position the
7 gun then discharged as it is design to because the
8 trigger was being pulled with this gun no longer on
9 safe.

10 then the last page:

11 We trust we have clarified the circumstances that
12 could possibly have caused the accidental firing, and
13 as a gesture of good will, even though there is noth-
14 ing wrong with the present trigger assembly, we can
15 replace it with another assembly at no charge to
16 insure that your faith in the rifle is restored, or
17 the rifle can be returned as received. We will await
the decision and reply. thank you for having
afforded us this opportunity to examine the rifle and
20 to be of service.

Have you finished the letter?

22 A. Yes.

23 Q. Isn't this letter very similar to the last letter I read
24 off in several paragraphs?

25 A. It's similar but also they've done a number of other

Linde - cross
108

1 things and I don't understand why, but there must have been
2 some other circumstances. Here again I feel that there must
3 have been because if you take a look at the distribution
4 again, this is not just a normal complaint.

5 Q Well, I'd agree with you there. in an effort to save some
6 time, if the Court grants us a recess this afternoon, what I'd
7 like you to do is take these two files that I've got here of
8 gun examination reports that you've produced and go through
9 and see if in each one, we can agree that in each instance the
10 gun examination report says rifle fired at least once, some-
times more, on release of safety, Remington did their gun
examination report and could find nothing wrong with the rifle
within their testing procedure in the gun examination
14 committee, and the response was, "Unable to duplicate customer
complaint And if you'll do that we can just stop going
16 through them right here. Would that be all right with you?

17 A. I really don't know what your question is.

18 Q- Well, I just want to make sure that all these gun examina-
19 tion reports are the same, and that's all I'm asking you to do
20 during the break and that way we can save a lot of time.

A Oh, I see, okay.

22 Q. Okay. At that point when we identify them all we'll worry
23 about entering them into evidence, okay? how you indicated
24 that you also had access to gallery proof test data during
25 1975 and later years.

Linde - Cross
109

1 A. Yes, I did.

2 Q. And did that show that in the factory Remington Model 700
3 bolt action rifles were firing upon release of safety?

4 A. We presented all that information this morning.

5 Q. Okay. You did show that, I just --

6 A. It's the same as presented, yes.

7 Q. Okay. Is that the chart you were talking about over there?

8 A. Yes, it is.

9 Okay, and I think you identified it as Defendant's Exhibit
10 #70, is that right?

11 A. If that's what it says, yes.

12 Q. Okay, and these are the number of FSRs by year?

13 A. Yes. Year, shipments, FSRs in the gallery and there's a
14 percentage.

15 Q Percentages. You and a couple of big years there didn't
16 you, as far as the ones you caught in gallery, '75 '76 and '77
17 would be much bigger than the rest of them.

18 A. I was concerned, but if you look at the total in numbers,
19 you know, it's quite insignificant.

20 Q Well isn't--

21 A. But to me every one was concerned about every one,
22 but if you take a look at it as a percentage, so if you say
23 big year, well it's not a big year, .0261%

24 Q. Well, in '75 there were 27 rifles, these were just the
25 ones you catch. Isn't that right?

110

1 A. No, not just the ones you catch, that's the ones that
2 FSRed in the gallery.

3 Q. Well that's what I mean, those are the ones you catch in
4 the gallery. Isn't that right

5 A. that's the ones that FSRed.

6 Q. Are you saying you catch all of them in the gallery?

7 A. I'm saying that under the conditions that exist when it
8 goes to the gallery, yes, you catch them.

9 -You're going to catch every single one?

10 A. Yes, you are.

11 Q. Without fail.

12 A. Yes, you are.

13 Q. What about all these complaints, well these two that I've
14 gone through, read for the jury at one start of our case,
15 that's six and I'll represent there's another 18 or so in that
16 file.

17 A.. Yes.

18 Q What about those in which the customers complain the rifle
19 fired on release of safety, Remington's looked at it, can find
20 nothing wrong. doesn't that mean that they didn't catch all
21 the FSRs?

22 A. No. You take the rifles assembled, some assembly and then
23 final assembled, right? We check it, it goes into the
24 gallery, it's tested, proof tested and tested, right?

25 Q Right.

Linde - Cross

111

1 A. Okay, now if there's any changes in the gallery we check

2 it, we test it. Now when it goes to the final assembly or

3 final inspection it's checked again as a redundant check.

Now what you're asking me to do is say you send the rifle, it's shipped, it goes to the customer, the customer uses it and it has an FSR or an alleged FSR and you're asking me to say well, because the rifle FSRed, you know, there's something

8 wrong with the gallery or one of them could have got by the

9 gallery, and I can't say that because I don't know what

happened to the rifle in the interim from the time it

left the factory to the time of the complaint.

12 Q. Well Remington had an opportunity to examine each of those

13 rifles.

14 A. Yes.

15 Q and could find nothing wrong with them.

16 A. Yes, they did.

17 Q they never did the screwdriver test, they never checked

18 the trigger connector clearance in any of those tests did

19 they?

20 A. I don't know.

21 Q It's not represented in any of those documents that you've

22 seen, those gun examination reports, is it?

23 A. No, it's not.

24 Q. Okay, so can we assume then since it's not represented

25 that it doesn't say "passed screwdriver test", that's some-

Linde - Cross

thing they did not check?

2 A. I don't know.

3 Q. You don't know whether they checked the screwdriver test

A. No, I don't.

Q. -- or checked the trigger or trigger connector clearance then.

A. No, I don't know -- for example on the one I know they set it on an optical comparator because I can see the measurement, so I know that that was done. Other than that, you know, what extensive testing they went through I can't say in looking at a piece of paper.

Q. You had nine -- as I counted it up you and nine FSR tests in your manufacturing process from the time you start putting two pieces together until the time you have a whole rifle.

A. Yes, sir.

Q. Three in final assembly three in the gallery and three in the final inspection.

A. That's correct.

Q Are you stating here that those nine tests catch every single FSR, every single rifle that has a susceptibility to FSRing or firing on safety release that Remington puts out? Okay, when you say that understand that Remington has put out over two million Model 700s.

A. I understand that.

Q. Will your check procedures, those nine tests, catch every

113

2 A. I'd have to say that, you know, I'd have to say that it
3 would.

4 It would catch every

5 A. That would catch them, yes.

6 Q. Is the FSR an intermittent condition?

7 A. Not to me it's not.

8 Q. It happens every single time then?

9 A. No. No, but like I was showing on the model this morning,
10 for example when we were talking about the trick -- why does
the trick percentages change? It can vary by how the rifle is
12 handled.

13 Q. Well, I still don't understand here. Are you saying that
if methods like --

A. what I'm saying is this. If you pick up a rifle and you
16 handle it a certain way, you put certain loads on it. You
17 operate it in a certain function. Okay, the rifle is going to
perform a certain way.

19 Q I understand that.

20 A. Okay.

21 Q Well

22 A. Now, and so some people have a hard time, as demonstrated
23 probably here in the Court, was the trick test -- doing the
24 trick test every time. I guess I really don't understand what
25 your question is.

Linde - Cross
114

1 Well, I'm just trying to figure out whether you believe
2 that an FSR condition in a Model 700 bolt action rifle is an
3 intermittent condition that will occur sometimes and other
4 time it won't, or whether it occurs 100% of the time in any
5 rifle that susceptible to that condition.

6 A. Okay, if you cover FSRs as a broad category, of anything
7 that would cause a fire on safety release, I would say that
8 you could classify that as -- well I can't. I can say that
9 certain circumstances cause it to happen essentially every
10 time, a certain set of Circumstances. For example, if a
connector was broken. Every time pretty much with a relia-
12 bility like 90% of the time anyway, unless you jiggle things
13 around you know, and shake it, but it's going to FSR. If the
14 trigger is bound back it's going to FSR. Now if you get a
15 condition where you, for example, back the trigger return
16 spring back and you sat it up where you get a hair trigger,
17 sure. By now you handle the gun or how you manipulate it or
18 how you rotate things you can get an intermittent FSR.
Sometimes it'll FSR, sometimes it could follow down,
sometimes it might work correctly.

21 Q So would you agree that FSR is an intermittent condition,
22 at least in some instances?

23 A. In some instances, yes we can.

24 Q. All right. Now going back then with your nine tests, will
25 your gallery tests, your final inspection tests and your final

Linde - Cross
115

1 assembly tests always pick up the FSR condition?

2 A. Yes, they will.

3 Q. Even if it's an intermittent condition?

4 A. Just a minute. the intermittent condition that we just
5 described is something that we did to take the thing out of
6 factory specifications. So what you're doing is you're taking
7 with the trigger assembly, if you put it into this envelope,
8 you say here's now it's going to operate in that envelope,
9 yes. the checks and tests will check for FSR.

10 Q But will they catch every single FSR, those nine checks,
11 if it's an intermittent condition on a rifle? It's a simple
12 question.

13 A. Yes, they will.

14 Q All right. Another question I'm going to ask you when we come
back from break, after you've reviewed those gun examination
reports is whether your tests in the factory for FSR
17 caught the FSR condition claimed by the customer in those
18 reports, so we'll ask that when you come back after you've had
19 a chance to reread them. Okay? Now you talked somewhat about
20 the Model 600 and the Model 700, and I believe the first
21 statement -- one of the first statements I heard you make and
22 I tried to write it down, just three word in quotes, is that
23 the Model 700 is a "completely different rifle". Those are
24 the three words, "completely different rifle" from the model
25 600. Do you remember making that statement?

116

1 A. I could have, yes.

2 Q Okay, and then you went into a description of how the
3 sights are different, how the barrel is different and how the-

4 A. Yes.

6 Q --trigger is a little more forward in one and a little
7 more back in the other one so that they are cosmetic differ-
8 ences.

9 A. That's not cosmetic. I mean, those are the elements that
10 make up the rifle -- the barrel, the receiver, the trigger
11 assembly, the stock, the butt plate -- I mean those are the
12 parts that make up the rifle.

13 Q- Well now the sight and the barrel and those parts of the
14 rifle weren't involved in any type of FSR problem or trick
15 condition at Remington, were they?

16 A. I was asked the question is there a difference between the
17 600 and a 700, and as you know, some carbines are made just by
18 taxing a standard rifle and shortening the barrel. Would you
19 agree with me on that?

20 Q. As far as I know, I don't --

21 A. Okay.

22 Q I'm not an expert, you tell me.

23 A the 600 as opposed to the Model 700, the 600 was designed
24 to be a carbine from the start. It was not a 700 that we took
25 and modified so that's why I went into the barrels are differ-

117

1 ent, the stock is different, the receiver is different, the
2 trigger guard is different.

3 Q. Other than trigger assembly, none of that has anything to
4 do with this lawsuit, does it?

5 A. No, but I've heard a lot of things that don't have any-
6 thing to do with this lawsuit, so don't ask me about that.

7 Q. I'm just trying to narrow down the area of inquiry.

8 A. Okay, let's do that.

9 Q Can we then eliminate everything but -- I think you called
10 it the trigger assembly.

A. Yes, we can if you want to.

12 And the trigger assembly includes what you call the fire
13 control system and also the safety assembly. Is that right?

14 A. that's correct.

15 Now let's look at that and forget about the barrels and
16 forget about the sights and the other differences that you
17 mentioned. All right? Is -- I'm going to use your three
18 words again -- is the fire control system of the Model 700,
19 the trigger assembly I should say on the Model 700 a com-
20 pletely different assembly than on the Model 600?

21 A. Yes, it is.

22 Q. And

23 A. And you're talking 1975.

24 Q. That was one question I had. the shadow boxes were up
25 here, I wasn't clear whether that was a Model 600 prior to

Linde - Cross

118

1 recall or a Model 600 after the recall.

2 A. It was prior to the recall.

3 Q. And you say they're completely different fire control
4 systems?

5 A. Yes, they are.

6 Q. all right, well let's look at that for a moment. first
7 can we agree that there's a one to one matchup of the parts?

8 In other words, if there's a sear in one there's a sear in the
9 other, and a trigger in one there's a trigger in the other,
10 and a trigger connector in one a trigger connector in the
11 other?

12 A. We can agree like I said in my explanation that when I
13 said the two engines, we can agree that there's a Ford piston
14 and a Chevy piston, there's a Ford camshaft and a Chevy
15 camshaft, there s a Ford carburetor and a Chevy carburetor.

16 Q Okay.

17 A. Okay. but you can't take the Ford system and put it in a
18 Chevy engine.

19 Q. All right. Are there some parts in the two fire control
20 systems that are interchangeable?

21 A. Yes, there are.

22 Okay, now and there is a one to one relationship between
23 the parts, in other words for one part in one there's a
24 similar part or identical part in the other one.

25 A Yes, I think you could interchange the trigger pin, I

119

1 I think you could interchange the I don't even know about the

2 sear pin. the safety pin

3 Q. The jury saw -- wait a minute, the safety pin?

A. the safety pin that operates the safety lever, the little wishbone that holds it on the spring. Yes, there are a number of little, small parts that are the same.

7 Q the jury saw the two shadowboxes--

A. Yes, they did,

9 Q. The ones that look fairly similar are probably interchangeable. Is that right?

11 A. Yes.

12 Q. Okay.

13 A. they could readily see which ones were different.

14 Q. All right. Now both of them have a trigger connector. Isn't that right?

16 A. Yes, they do.

17 Q And that trigger connector is a direct descendant from the Merle Walker patent of 1948, isn't that what made the Merle

19 Walker patent unique?

20 A. that's one of the items.

21 Q Okay, and that trigger connector, you testified about all the other rifles you look at. Have you ever seen a trigger

23 connector connecting this in another rifle?

A. Yes, I have.

25 Q On, you have? How about the ones here that we've got in

Linde - Cross
120

1 the courtroom?

2 A. No, I haven't.

3 Okay. The trigger connector, though, is Remington's own
4 patent design, isn't that correct?

5 A. Yes, it is.

6 Q. Now, did I also understand you to say that the operation
7 of the two fire control systems is essentially the same?

8 Again I tried to quote you, "operation is essentially the
same" on the two fire control systems.

10 A. How they operate, yes.

11 Q. Can we then say they are functionally the same?

A. No, we can't.

13 Q. Way not?

14 A. Because they operate -- from a customer standpoint they
15 would operate the same but they function -- they function by
16 their part tolerances and by their interrelationships, and the
17 two are not the same.

18 Q the operation is the same though in certain respects
19 though, isn't it? Both have a resiliently mounted of trigger
20 connector?

21 A. I've never heard that trigger connector is called
22 resiliently mounted.

23 Q. Okay.

24 A. that to me is maybe patent language or somebody -- some-
25 body read out of a book. To me something that's resilient is

121

1 like a rubber band I stretch it and it comes back.

2 Q. it is patent language, that's what we've used. if I use
3 it again that's where it came from.

4 A. That's fine with me, I'm just saying, you know, when you
use it I just feel uncomfortable with it.

6 MR. HEADLEY: Are you contending that language is in
7 the patent?

8 MR. MILLER: As I remember it.

9 MR. HEADLEY: Sir?

10 MR. MILLER: As I remember it.

11 MR. HEADLEY: Well then you'd better put that caution
12 on it rather than to lead the witness to think that every-
13 body's agreed on that.

14 MR. MILLER: I'll take a look at the break just to
15 make sure.

16 MR. HEADLEY: All right.

17 MR. MILLER: Okay?

18 BY MR. MILLER:

19 Q. what word would you use for the trigger connector if you
20 don't want to use resiliently

21 A. No, I don't mind using resilient.

22 Q, okay.

23 A. I'm just saying my resilient -- when I looked up the word
24 resilient, that is that it's something that is operated on and
25 it moves and it comes back to its initial position.

122

1 Q All right, well if we use resilient is that all right with
2 you?

3 A. Fine.

4 Q. Okay. how you mentioned designers, Mr. LeeK and Mr.
5 Walker. You said Mr. Leek designed the Model 600 and Mr.
is Walker designed the Model 600?

7 A. That's correct.

8 Q. Those two individuals worked both at Remington. Is that
9 right?

10 A. Yes, they did.

11 Q. And they both worked at Ilion?

12 A- Yes, they did.

13 Q. During the same time period?

14 A. Yes, they did.

15 Q And they probably worked together on some projects, didn't
16 they?

A No, they never.

Q Never worked together on anything while they were there?

19 Well, they talked to one another but they had their own
20 groups.

21 Q But they both ended up with a design using the resiliently
22 mounted trigger connector.

23 A. Yes.

24 Now you mentioned the safety Lever was increased in length
25 in the 600.

123

1 A. No, I never said that.

2 Q. I thought you said that was one of the alterations you
3 made in the 600.

4 A. No, I said the cam on the safety lever was increased.

5 Q. Okay, the safety lever was never increased?

6 A. Not that I'm aware of on the 600.

7 Q One thing I had some curiosity about.

8 MR. MILLER: Do you have the shadow boxes, John?

9 MR. SHAW: Yes.

10 BY MR. MILLER:

11 Q. I'll put them here so the jury can see them. You might
12 want to step down for just a second. One thing that I was
13 curious about, we've got -- I just want to focus on one part.
14 the trigger screw front here and the trigger adjusting screw
15 over here on the two rifles. this is the Model 600, this is
the Model 700, correct?

17 A. Yes.

18 Q all right. Isn't it a fact that on the Model 700 that
19 used to be called the trigger adjusting screw?

A. I don't know.

21 You don't know? Wasn't there a design change involved?

22 A. there could have been.

23 Q. Okay. Wasn't that change made because Remington had
24 decided against adjusting the triggers in those rifles?

25 A I don't know that.

Linde - Cross

124

Q Let me show you design change #10899 which is Plaintiff's Exhibit G-55.

A. Okay.

MR. SHAW: What's the exhibit?

MR. MILLER: G-55.

THE WITNESS: Yes.

BY MR. MILLER:

Q. Doesn't that design change change the names of the three formerly adjusting screws in the Model 700 to eliminate the word "adjusting"?

A. Yes, it says change "trigger adjusting screw" to "trigger screw front".

Q. that's why it is now called a trigger screw front, isn't it?

A. Obviously.

Q Okay, and that was done when?

A. that was done on 6/7/79.

Q that's four years after Mike Lewy's rifle was manufactured and Mike Lewy's instruction manual was put out with this rifle, wasn't it?

A. Yes, it would have been.

Q. So in his manual weren't the screws in there referred to as "trigger adjusting screws"?

A. Yes, they would have been.

Q And isn't it a fact that Remington, when they first put

Linde - Cross
125

1 out the Model 700 advertised it as a fully adjustable rifle

2 A I Know they did for a period of time, yes.

3 Q And then for a period of time they also told the owners
4 now to adjust it in the owner's manual, didn't they?

5 A. Yes.

6 Q. And isn't it, in your experience with gun owners,
shooters, target hunters -- target shooters, isn't it common
8 knowledge among them, in your talks with them on now you
9 adjust the Model 700 fire control system?

10 A. No, I don't believe that's common Knowledge, no.

11 Q. Is that Knowledge that's held by a certain segment of the
shooting public?

13 A. A certain segment, yes.

Q Is it Knowledge that's published in various books and mag-
azines throughout the years as to how to modify the fire control
system or adjust the fire control system on a model 700?

17 A. In some, maybe specialized publications you could find
18 it. it's not something that you could, you know, pick up a
19 magazine and read exactly how to adjust it.

20 Q. You couldn't pick up a magazine and read now to adjust it?

21 A. Well, maybe in years past you could, but you could not
22 today.

23 Q. Now about 1983?

24 A. I don't Know. I guess the only thing I can say is if you
25 said well, is it something that shooters would know like in

Linde - Cross

126

the group that I -- would shoot every Monday night in a
2 league, and this was target shooting where you would want a

3 good trigger and the majority of the people there never

4 adjusted their own triggers, you know, and it isn't something

5 that they wanted to do.

6 Q. They were target shooters, is that right?

7 A. They were target shooters, yes, and they never adjusted

8 it, so you know, I think it depends on what you're talking

9 about. Yes, there's a segment of the population that's cap-

10 able and that could adjust it, you know, gunsmiths and people

11 who are really into firearms.

12 Q I'm asking you about the knowledge. is there knowledge

14 out there? So let's limit it to target shooters.

A If you're saying is there publications that tells about
how a trigger assembly can be adjusted, I'm sure there's
publications that tells now every one of those trigger
assemblies on that table could be adjusted. if you want to
look for it, you could find it.

19 Q What I'm trying to get it is in your experience with

20 hunters and target shooters, is it common Knowledge among them
how to adjust it?

22 A. That's where I disagree with you. I don't think it is

23 common knowledge that every shooter knows now to adjust his

24 rifle.

25 Q Is Guns and Ammo one of the main publications that's

127 .
distributed widely to the shooting and hunting public?
2 A. It's a publication, it's a gun -- just like you say, Guns
3 and Ammo, it's a hunting publication.
4 Q. Has a pretty good circulation compared to some of the
5 hunting publications, doesn't it?
6 A. As compared to some of them, yes. You know, as compared
7 to something like one NRA publication I would say no.
Q. I'll hand you what's been marked as Plaintiff's Exhibit
9 C-7 And ask you to turn to -- if you want to read the whole
10 article you can, I'm not going to try and limit you, but just
11 for the sake of hurrying turn to page 54. First, who is this
13 article by?
A. By an individual by the name of Bob Milick.
Q. and who is Bob Milick, do you know?
A. No, I don't.
Q. In this does he first say, in the underlined language,
that he found too heavy a trigger pull on the rifle when he first--
A. It says:
Despite the manufacturer's attempts to convince
owners otherwise, the trigger is adjusted for weight
of pull on overtravel. As my 243 came from the box
the pull was four and a half pounds, much too heavy.
Q Why don't you read the rest of that column if you would?
A. Screws to adjust the pull weight and overtravel are

Linde - Cross
128

1 located on the front of the trigger housing and the
2 factory has covered them with a thick coat of lacquer
3 to both discourage owners from changing the pull and
4 to keep the screws from moving under recoil. the
5 coating over the screws is easily scraped away with a
6 knife, thus exposing the slotted heads for a small
7 screwdriver.

8 Do you want me to continue to read?

9 Q Yeah, continue. I'm sorry.

10 A. The bottom screw adjusts weight of pull and turning
11 it counterclockwise reduces the pull weight. Turn
12 this out until the desired pull is achieved then turn
13 the top screw clockwise until the trigger can't be
14 pulled.

15 Q If you'd continue.

16 A. At this point, back the trigger stop screw off a
17 little bit at a time until the trigger

Q. All right, continue.

A. -- releases. overtravel is thus eliminated. After
20 you've got the trigger adjusted reseal the screws
using lock-tite or lacquer so they will stay put. 22 I caution
you about setting the trigger pull too
23 light. It's possible to take it down so far that a

24 light jar on the gun causes the sear to release.
Do you want me to continue?

Linde - Cross

129

Q Yeah, I've got some language highlighted I'll stop you-

A. I found that my trigger could be safely set at two pounds so this is where I have it. Below this, jarring the gun sometimes causes sear release.

Safety on the Model 7 is located on the right side of the receiver just behind the bolt handle. the lever is narrowed on top to give a nonslip surface for your thumb into contact. Pushing the lever forward puts it in the fire position. Pulled rearward it's unsafe. This is a very good safety system, one which not only blocks sear movement but actually lifts the sear up and out of engagement with the trigger. Even though the trigger is pulled while on safe, when it is released the trigger spring forces it to return to its proper at rest position. Thus when the safety

17 is released the sear properly engages the trigger and

18 the only way the system can fail is if you hold the trigger back while releasing the safety.

20 Q All right.

21 A. "Two of my prerequisites are answered."

22 Q. that's fine, we can just stop there. Go back to 54 for

23 one moment if you would. I neglected the first part. You can

24 read it or you can just tell the jury, is the Model 7 Light-

25 weight the same right as the Model 700 with respect to the trigger assembly?

130

1 A. I'm not sure on that because the -- I don't know if the
2 position on the safety lever on that is different than the one
3 on the 700 or not at that point.

4 Q. Well, just under that

5 A. the tang, you see, is different I think on the Model 7
6 Lightweight, and that might take a different trigger assembly

7 Q. Well, the individual here says:

8 A good trigger is essential to any sporter. As far
9 as I'm concerned the Model 7 we find the same trigger
10 as is used in the Model 700.

11 Then it goes into what you read. Okay? I think we left that
12 sentence out and I just wanted to bring that to the attention
13 of the jury. Now so can we agree that in a magazine of gen-
14 eral publication there are instructions as to how to adjust
15 the trigger assembly in a 700 bolt action rifle?

16 A. Yes, I'd say in this one that there's instructions that
17 tell it.

Q Okay. Now you mentioned another publication or another group,
the NRA.

A. Yes.

QQ Are you aware as to whether or not the NRA publishes
instructions in how to adjust the trigger in a Model 700
rifle?

A. In their monthly magazine?

Q. Anywhere that the NRA has publications.

A. I wouldn't think that they would publish it in their

Linde - cross

131

1 monthly magazine.

2 Q. Now about in any of their other publications you know of?

3 A. Maybe some of the publications that they have produced,
4 you know, for gunsmiths.

5 Q They in fact do publish it in Firearms Assembly #3, don't
6 they?

7 A. It could be in there, yes. that would be their special-
8 ized publication.

9 Q Well this isn't specialized, this is available to anybody
10 who writes for it and pays the fee to get a copy, isn't it?

11 A. Yes, you could I would imagine. I don't know that. You'd
12 have to tell me.

13 THE COURT: We'll take a recess for 15 minutes.

14 COURT IN RECESS FROM 3:10 P.M. UNTIL 3:43 P.M.

15 AFTER RECESS

16 THE COURT: You may proceed.

17 By MR. MILLER:

Q. Now Mr. Millick's article that I put up on the screen
indicated that he felt a two pound trigger pull was the
satisfactory minimum. Isn't it a fact that Remington's own
gunsmith

21 manual, field service manual which it distributes to its gun-
22 smiths in the field allowed for a minimum of a two pound
23 trigger pull in 1976 when it was published?

24 A. Not that I'm aware of.

25 Q Let me hand you what's been marked as Plaintiff's Exhibit

Linde - Cross

132

D-5 starting at page 51. I'll refer you to D-5, page 62.

MR. HEADLEY: What Exhibit Number?

OR. MILLER: D-5.

MR. HEADLEY: D?

5 MR. MILLER: D.

6 MR. HEADLEY: G.

7

MR. MILLER: As in dog.

MR. HEADLEY: Dog, all right.

MR. MILLER: It's already in evidence.

by MR. MILLER:

Q. Doesn't it indicate that for target shooting rifles a two pound trigger pull is a satisfactory minimum?

A. it says:

Trigger pull adjustment on any field rifle should be adjusted should never be adjusted below three pounds.

And the ADL and the BDL are both field rifles.

Target pull adjustment on any rifle should never be adjusted below two pounds.

And that's -- a target rifle would be the 40X

Q Don't people use target -- well is the 40X indicated any-

where on that sheet? That applies to the 725, 721,

722, 700 and 600, so it's got to be referring to those rifles.

A No, it doesn't necessarily have to be. It was a safety check put in for the bolt action rifles.

Linde - Cross

133

Q. Doesn't it say there:

2 Trigger pull adjustment on any rifle should never be
3 adjusted below two pounds.

4 And isn't that on the same sheet that refers to the models
5 we've been talking about, the 700s, the 600s and their pre-
6 decessors?

7 A. The top of the sheet, I agree, says 725, 721, 722, 700 and
8 600. There's two trigger pull notes:

9 Trigger pull adjustment on any field rifle should
10 never be adjusted below three pounds.

11 Q. It doesn't say trigger pull adjustment of any target rifle?

12 A. It says here -- here then it says --

13 Trigger pull adjustment on the target rifle should never
be adjusted below two pounds.

And the 40X is a target rifle of 700. There's also -- it says
see Note A.

After any adjustments to trigger housing assembly
screws, repeat all safety checks, check for follow
down, see malfunctions, restake or reseal screws.

Q. The Model 700 is used for target shooting, isn't it?

A. The Model 700 ADL, BDL, Classic, Lefthand, Righthand,
Custom, is a field rifle.

Q. But my question to you is, isn't the Model 700 used for
target shooting?

A. The with the 700 the only 700 that I would know that

134
would be really used for target shooting to a certain degree
2 would be the 40X varmintier which is a heavy barreled 40X -- or
3 pardon me, the 700 Varminter which is a heavy barreled 700.
4 Q So you're saying that nobody that ever buys a 700 ADL
5 rifle such as Mike Lewy ever uses it for target shooting?
6 A. What I'm saying is this, if you buy a 700 ADL 30.06, par-
7 ticularly in that cartridge, that your primary intent would
8 not be to target shooting, no.
9 Q Does anybody -- does Remington in its gun owners manual
10 which distributes it right with the 700 anywhere indicate to
the owner that this rifle should only be used for hunting and
12 should never be used for target shooting?
13 A No, no.
14 Q Now you mentioned four Model 600s that were returned to Ilion
in 1975, one of which you talked about.
16 A. Yes.
Q And you indicated in that one that there was a new test
that Remington created which was called the worst test.
A. No -- well go ahead, yes.
20 Q Define --
A Yes, go ahead, yeah.
Q. Where you pull the trigger up and to one side or the
23 other. Is that right?
24 A Yes.
25 And you said that's a different test than when you just

Linde - Cross

135

pull the trigger normally in a rifle, which is the FSR test.

A. That's right.

4 Q. So the location of the trigger or the direction of the trigger pull makes a difference as to what kind of test we're going to call it?

A. It did in that case. It was to eliminate confusion at the time.

Q. The same thing happens in both rifles, or in both tests when the rifle fires. -The trigger connector is not there to support the sear, isn't that right?

A. That's right, the trigger is forward.

Q. And this worst test is Remington's definition, that's that worst test that we saw on some of those documents we showed you right at the outset, wasn't it?

A. Where it said worst? I don't know that.

17 Q. Okay. I my question I guess next is what about those other three rifles that failed this worst test. What was the

19 problem with them?

20 A. As I recall, and I'm not sure on that, but as I recall I

21 don't know if they really were FSRs or not. There's some question on that.

Q. Do they all fire when you push the safety off?

A. I don't know that they did.

25 Q. Well isn't that the worst test, when you

A. Yes.

Linde - Cross

136

Q. -- push the safety off they fire?

A. That's right.

Q. So if they do the worst test as Remington defines it, then they also fire when you push the safety off.

A. Yes. You're asking me though -- if I understood your question to be is -- you know, you got them back and you looked at them and what was the results? I don't know.

Q. Okay. Now does Remington have any names of tests that we haven't covered so far? We've got trick, the FSR, the screwdriver and now the worst test. Are there any other tests in which rifles fire when you push the safety off that we haven't named so far?

A. Which tests do we have?

Q. Well, we've got the -- we talked about the screwdriver test.

A. Yeah.

Q. We've talked about the trick test.

A. Yeah.

Q. We've talked about the FSR test and now we've talked about
21 the worst test. Are there any other names for failures of a
rifle to function, or any other names for a rifle that fires
when you --

A. I understand. I don't

Q. take that safety lever and push it off?

A. I don't know of any.

Linde - Cross

137

Q. Just those four then, we're not going to come onto any more?

A. Not that I can think of.

4 Q. Okay. Now I asked you wish respect to the FSR and the worst test, isn't it true that in all of those four tests what happens when you push that safety off and the rifle fires is the sear falls because the trigger connector is not underneath it to support it?

A. That's right. The sear is not being supported.

Q. Now all of those are due to interference between the trigger and the trigger -- or excuse me, between the trigger connector and the sear that prevent it from returning back underneath?

A. No.

Q. All those can be caused by that condition. Is that right?

A. No, I can't say that.

18 Would the removal of the bolt lock on the Model 700 rifle have eliminated the possibility of setting up these four

19 tests? In other words, you could have unloaded the rifle on

20 safe and avoided setting up the condition in the field?

21 A No.

22 Well if you unload the rifle on safe you never push it to

23 the fire position, right?

25 A. Yes, but you're making the assumption that the rifle, you said would eliminate it. You're making the assumption that

Linde - Cross

138

the person who owns the rifle would leave it on safe.

Q. Well yes, I am making that assumption.

A. And if the condition in the sear was not supported, regardless if it had the bolt lock on there or not, if he pulls the trigger and releases the safety and there was a condition in there, it would fire when the safety is released.

Q. But if you take the bolt off, the bolt lock off the rifle, you don't have to push it to the fire position, right?

10 A. If you take the bolt lock off you don't have to push it to the fire position for what?

Q. To unload it.

13 A. That's right.

Q. And therefore in each of those instances if you can unload it on safe you don't have to push it to the fire position. You don't have to worry about it firing when you push it to the fire position in the unloading sequence. isn't that correct?

A. You wouldn't have to put the safety in the fire position, no.

Q. Okay, so you don't -- now why did the Remington recall the Model 600 rifle?

A. And this is from my vantage point, okay, from where I sit. Remington recalled the 600 rifle because there was a settlement in a case called the Coats case and in this settlement Remington felt that if it was alleged -- or in this case

Linde - Cross

139

it was alleged that the 600 could be tricked and Remington
2 felt that if they did not recall the 600 rifle that any time a
3 600 went off unexpectedly that people would claim that the
4 rifle was tricked.

5 Q. The 600 could be tricked, couldn't it, a large percentage
6 of them could.

7 A. The 600 could be tricked, but the question is, is that to
8 do the trick somebody has to take the rifle, intentionally put
9 it in a center position, pull the trigger and then have that
10 condition stay in that position -- or have that situation stay
so that the question of having a trick test actually happen,
12 or a trick actually happen is very, very remote.

13 Q. Did Remington

A. it s like taking a light switch and going over and saying
trying to put it between an off and on and then saying yes,
16 you know, and then trying to hold it there.
A light switch doesn't fire a bullet if it malfunctions,
does it?

A. It could -- well, it's an electrical hazard. Would you do
that? Would you put a light switch on halfway and then stick
your finger in a socket? You know, I'm just carrying it to
the point.

23 Q. I realize that. Let me ask you this then. Does Remington

24 consider the Model -- or did they consider the Model 600

25 defective when they recalled it?

140

1 A. No, we did not.

2 Q. You don't consider it defective to this day?

3 A. No.

4 Q. Weren't there other accidents involving the Model 600

5 other than the Coats case?

6 A. There have been, yes.

7 Q. You still don't consider it defective?

8 A. No.

9 Q. Didn't you get complaints from the field of the trick
condition that didn't involve accidents just like you get com
plaints from the field on the Model 700 of FSRs?

12 A. Complaints from the field on a trick condition?

13 Q. Yeah, in the 600.

14 A. I've never heard of a complaint from the field on a trick

15 condition.

16 Q. Well you've had other accidents you've said. I was just

17 wondering

18 A. We've had other accidents, but from a trick condition, no.

19 Q. Never had another accident involving a trick condition,

20 which it was alleged the rifle was in a trick condition?

21 A. Well, there might have been another accident alleged that

22 the rifle was in a trick condition.

23 Q. Now, let's talk about the fire control system on the Lewy

24 rifle specifically for just a moment. Let's talk about the

25 trigger first, okay? What is the specification for the part

Linde - Cross

141

2 of the trigger, the distance in the trigger. Let me show you

3 the trigger drawing.

4 A - Okay.

5 Q The distance of that area of the trigger in which the

6 trigger connector fits around.

7 A. You want what now?

8 Q. The distance of that area on the trigger in which the

9 trigger connector fits around, this distance here.

10 A. Okay, and you want it for the Lewy rifle?

11 Q. Yeah, as of 1975.

12 A. It would -- the dimension would be an inch 076 plus or

13 minus five.

14 Q Plus or minus five?

A. Yes.

Q. All right, let's take 1.076. Okay, we could take 1.071 or we could take 1.081. Is that right?

A. Yes, you could.

19 Q. Okay. I'll put down plus or minus five. Is that what you

20 mean when you -- plus or minus five is 5,000ths, right?

A. Yes, it is.

22 Q. Is that what you mean by a tolerance? You've got an area

23 where you can still meet specifications but go up and down a

24 little bit?

25 A. That's right.

Q. And so you go as small as 1.071 up to 1.081.

Linde - Cross

A. That's correct.

Q. Okay. Now, on the -- this is 1975, right? These are the 1975 figures, right?

A. That's what you asked for, right?

Q. Yeah, I wanted to make sure. Now on the trigger connector, what's the corresponding distance in the trigger connector that fits with the trigger as of '75?

A. It would be 1.080 inch, 1.083.

Q. So it could go from 1.080 to 1.083. Is that right, in 1975?

A. Yes, it is.

Q. Okay. Now if we take the minimum possible let me put this down here. The first one was the trigger, I'll use T for that, and trigger connector so we'll know what we're talking about. if you take the minimum possible trigger, 1.071 all right?

A. Yes.

Q. And the maximum possible trigger connector.

A. Yes.

Q. Which is the worst matchup possible, right?

A. It is the -- it would give you the maximum clearance.

Q. That would still be -- that part would still be within Remington specifications as of 1975.

A. Yes, it would be.

Q. Okay, at 1.071. Would this part still be within Remington

143

1 specifications as of 1975?

2 A. That's what I gave you.

3 Q. Yeah, I just want to make sure we understand that. That's

4 still within Remington's specifications at 1.083.

5 A. Yes, it is.

6 Q. Okay, and the difference there would be to subtract 1.083

7 from 1.071, right? And if we subtract those two the differ-

8 ence would be .012. If you're having trouble seeing I can

9 move it around.

10 A. No, I know what it is.

You know what I'm talking about? Okay. 12,000ths.

12 A. 12,000ths.

13 Q Yes. Now is that figure there the specification Remington

I had in 1975 for the maximum -- I'll use my hand signals again

15 -- for the maximum clearance between the trigger and trigger

16 connector? 12,000ths of an inch?

17 A That's what the drawings say, yes.

18 Okay, and that was in 1975?

19 A. Yes, it was.

20 All right. Has there been a change in that maximum play

21 between the trigger and trigger connector in maximum fit up to

22 the present?

23 A. There's been a change in the trigger which would impact

24 that clearance.

25 Q Has it resulted in a change in this maximum play?

Linde - cross

144

1 A. Yes, there is.

2 Q. Okay, and what was that change?

3 A. The trigger, the tooling on the trigger was changed in
powdered metal and the trigger dimension is 1.079, 1.077.

5 Q. The trigger dimension is 1.079, 1.077?

6 A. Yes.

7 So what you did here didn't really leave a good place to write
it down. Let me write it over here on the side. Now

9 you've got the trigger 1.077 as the minimum, right?

10 A. I think that's what I --

11 Q. 1.079, I think that's what you said.

12 A. 1.077, 1.079.

13 Q. Okay, that is the tolerance in the trigger. Now I'm sorry

14 to keep having to get up, what date was that that you made

15 that change?

16 A. It was made on 1/30/80.

17 Q. Okay, so that's the 1980 change, right?

18 A. Yes, it is.

19 Q. So as of the date the Lewy rifle was manufactured, this
calculation was good and this was the maximum play or maximum
21 fit.

22 A. Yes.

23 Of the trigger and trigger connector.

24 A. But the bottom, if you would carry that out, you would

25 find that it goes from 1,000ths interference to 12,000ths

Linde - Cross
145

1 clearance.

2 Q. Okay, all right. Now --

3 A. And then the change was made in the powdered metal where
4 we did not like the filing, where if the trigger connector as
5 plumb tight to the trigger then the operator would have to
6 file it, and we didn't want the filing so we went back and
7 reworked the tooling and come back with a dimension of the
8 plus or minus one, got rid of the filing, and if you check the
9 minimum on the other you'll find now that we have a clearance
10 also in the other condition.

11 Q. I'm going to get to that in just a moment, you're jumping
12 ahead of me. My question is this, is this change here, does
13 that tighten up the tolerance of the trigger? It used to have
14 10,000ths of a tolerance, now you've got 2,000ths. Is that
15 right?

16 A. Yes.

17 Q. Okay, now what I'm worried about -- what I'm wondering
18 about, and I think what you were getting to is, as a result of
19 this change, what does that make the current or as of 1980,
20 maximum play of the trigger and the trigger connector?

21 A. I don't know, calculate it out.

22 Q. Isn't it 6,000ths?

23 A. Well, run through the figures.

24 Q. Well, I was trying to shorten time. Do you remember,
25 though, talking about this during your deposition?

Linde - Cross

146

A. Yes, but I -- you know, with numbers I'm not going to be fooled, just work it out.

Q. Okay, let's take 1.79 here, right? That would be the maximum. Excuse me, the minimum, I'm sorry, 1.77, and compare that to the change -- to down here, 1.83.

A. Yes.

Q. What does that give you?

A. 6,000ths.

Q. Okay, so now by Remington's specifications the biggest play is 6,000ths, right?

11 A. That's right, the clearance between the trigger and

12 connector is 6,000ths. The other, if you go 1.079 to 1.--

13 what is it, 81? Does it give us 2,000ths clearance?

14 Q. I don't know, I'm concerned with the maximum because my

15 next question relates to that.

16 A. Oh, I was concerned with the minimum so that you make sure

17 that the connector always pivots.

Q. And again, just to make sure, we're talking about this distance right here. The fit of the trigger connector to the trigger, the maximum amount of play used to be 12,000ths, now it's 6,000ths, right?

A. If you had a shim in there.

Q. Yeah.

A. Yeah.

Q. Remington did test this rifle with a shim. Are you famil-

Linde - Cross

147

iar with that or not?

A. I know that they did that, yes.

Q. What was the shim that fit in there -- in other words, what did Remington determine was the play in the Lewy rifle?

A. I'm not sure, I think it was 10,000ths.

Q. 10,000ths, okay. But after the manufacture of the Lewy rifle they tightened down that trigger, trigger connector play, right?

A. Well, that was tightened down -- was the change in the trigger, yes.

Q. Yeah, and that was after the manufacture of the Lewy rifle.

A. Yes.

Q. Now let's go to the next step. If the Lewy rifle has 10,000ths rise here --

A. If you had a shim in there.

Q. Yeah.

A. The Lewy rifle wouldn't look like that. Actually, the connector would be dropped down the other way.

Q. It depends on where you test, doesn't it?

A. No. if gravity is still making this weigh a certain amount that connector should be down.

Q. Is the clearance there 10,000ths if you test it with a shim at that point?

A. Yes .

Q. All right.

Linde - Cross

148

A. Yes, it is.

2 Q. That's what I'm trying to get. Are you familiar with what
3 the sear lift is in the Lewy rifle?

4 A. I don't know for sure but I think it was around 9 1/2
5 thousandths.

6 Q. If I said it varied from 7 1/2 to 9 1/2 thousandths would
7 that refresh your memory from what you understand?

8 A. No, I understood it was like between 9 and 9 1/2
9 thousandths.

10 Q. 9 and 9 1/2?

11 A. Yes.

12 Q. In any event, is the sear lift less than the measurement
13 of the play or the trigger and trigger connector?

14 A. Yes, it would be half a thousandth less.

15 Can the trigger connector rise to a higher position than
16 the sear lift in the Lewy rifle?

17 A. If you took it and forced up on it yes, it would.

18 Q. That's what we do with the screwdriver test, right?

19 A. If you would take a screwdriver in there and you force it
20 and you hold it with even half a thousandth, if you keep
21 pressure on it you could hold it there, yes.

22 Q And if the Lewy rifle had been manufactured today or any
23 time since 1980, it wouldn't meet specifications now, would it?

24 A . No, it wouldn't.

25 Q. Because that's too big, 4,000ths too big.

Linde - Cross

149

2 A. Well, we changed the trigger so it would meet it, yes.

3 Q. I understand that, but didn't that result in this --

4 A. Sure, that results and that dimension would go down.

5 Q. Okay, so a rifle showing this characteristic today,

6 10,000ths clearance, would be out of specification.

7 A. Yes, it would.

8 Q. Okay. And does that interference cause the FS -- the
firing on release of safety that results when you perform the
screwdriver test in the Lewy rifle?

A. Yes, it would.

Q. It does do that, doesn't it?

A. If you hold that up with a screwdriver, sure.

14 Q. All right. Now the next question is, can that condition
occur in the-field? Can a condition or a force in the field

16 such as carrying the rifle over your shoulder, dropping it in

17 the ground and laying it down and putting it in a couch,

18 carrying it in the rack of a pickup truck, any kind of cir-
cumstance you imagine -- can a force be exerted to the trigger-

19 connector similar to what we do in the pencil test?

20 A. No. No, it can't.

Q. It can't?

23 A. No, it can't.

24 Q. What is the sear lift specification for Remington as of

25 1975 for the Model 700?

A. I'm not sure.

Linde - Cross
150

2 Q. Did they have a specification in 1975?

3 A. Yes, they did.

4 Q. What's the sear lift specification any time since 1975?

A. I'd have to look at the sheets.

5 Q. What sheets would you look at?

7 A. Well, I'd look at a process record, I guess.

8 Q. Okay. You don't know offhand what the sear lift
specification was?

A. No, I don't.

11 Q. You don't know if this meets the sear lift specification
or not then?

A. Oh, I know that 9 1/2 meets the sear lift specification,

14 yes.

Q. How about 7 1/2?

A. I would think, but I'm not sure.

Q. Well if 9 1/2 meets the sear lift specification, in other
words the sear lift minimum is less than that, right?

19 A. Yes, it is.

Q. In 1975?

A. Yes, it was.

Q Okay, so if you've got less than 9 1/2 thousandths as your
23 minimum sear lift and that's still the specs in 1975

A. Yes.

25 Q. -- yet you can have as much as, if the jury remembers the
figures, 12,000ths play there.

1 A. That's correct.

2 Q. Here you've got somewhere less -- we'll say 9 1/2

3 excuse me. In 1975 that would meet the sear lift specifica-

4 tion and that would meet the trigger, trigger connector play,

5 right?

6 A. Yes, it would.

7 Q. Doesn't that create a design problem with the rifle in

8 1975 that sets up this interference between the trigger

9 connector and the sear, because the sear can't rise as high as

10 the trigger connector can?

11 A. No, it doesn't.

12 Q. Why not?

13 A. Because the trigger connector is held down on top of the

14 trigger.

15 And will never rise up?

16 A. It's not going to rise up.

17 Q. Even if you carry it upside down?

18 A. Even if you carry it upside down. The only way it would

19 rise up if you carry it upside down would be if you didn't

20 have any spring tension against it.

21 Q. Now let's go to the sampling procedure for just a moment,

22 I want to clear up one or two points fairly quickly. You said

23 that your assemblers -- well I'm sorry, the first test you

24 said was some sort of Bell Laboratory statistical sampling?

25 A. Yes.

Linde - Cross
152

2 Q. And you do that in all the parts, even in the ones you
3 make and the ones that come in from vendors?

4 A. Yes. We have a statistical program that we set up for all
5 of our parts that we manufacture there and we go to control-
6 ability.

7 Q. And you were involved in this testing procedure back in
8 '75, '76 and '77?

9 A. Oh, I've been involved with quality control, yes.

10 Q. Okay. What is the percentage of parts -- let's take the
11 trigger connector. What is the percentage of parts out of a
12 certain group that comes in from your vendor. The trigger
13 connector is a vendor produced part, isn't it?

14 A. Yes, it is.

15 Q. Someone else sends it to you.

16 A. Yes, they do.

17 Q. What is the percentage of those parts that was tested in
this Bell statistical sampling?

A. I don't know, it would depend upon the sample size that
you're taking.

Q. All right. Could you give me a rough idea of the per-
centage?

23 A. I don't know what it would be, I really don't.

Q. Less than 50%?

25 A. Yes, it would be less than 50%.
Less than 25%?

153

1 A. It would be less than 25%.

2 Q. Less than 10%?

3 A. I don't know from there on.

4 Q. So you don't do a 100% sampling with Bell's physical samp-
5 ling.

6 A. No, when you -- and when you're checking for parts coming
7 in from a vendor what you're doing there is you're checking
8 the batch to see if you have the lot integrity, what you call
9 the lot integrity to make sure that there's nothing signifi-
10 cantly wrong. Now in our manufacturing process where we have
11 one guy assemble the whole gun, he's the person who essentially
checks every part.

13 Q We're going to get to him in just a moment.

14 A. Okay.

15 Q. I just want to establish the statistical sample that you're
talking about might not catch numerous parts that go
17 through, if it's just one or two or three --

18 A. No, not numerous.

19 Okay. Let's go to your individual assembler.

20 A. You see, because the samples, that's why you can't say how
21 many -- not big a sample you take. If you have something
22 that's highly controllable like a part that comes in and it's
23 easy to manufacture and it's straightforward, the number of
24 parts that you're going to have to sample there is quite
25 small, and you can be assured if you sample a few of them that

Linde - Cross

1 every one is going to be the same. On something where there
2 is variations, whether it's material or what have you, then
3 your sample size has to be bigger.

4 Q. Let's go on to the individual assembler. You said he
5 inspected each part 100%, right?

6 A. That's right.

7 Q. Now this individual assembler, is he the one that starts
8 with the trigger and trigger connector and then builds the
9 rifle from that point up?

10 A. Yes. Well, it depends upon the operation, sure.

11 Q. He doesn't do the whole rifle, you have sub assembler and
12 you have -- that do certain parts --

13 A. No. no.

14 Q. -- and then you put the parts together and you've got a
15 final assembler.

16 A. We have a sub assembler and a final assembler, that's
17 right.

18 Q. All right, and you have a sub assembler for the
trigger housing, trigger

20 A. Yes, we do.

Q. You didn't have that in 1975, did you?

A. Yes, we did.

23 Q. You had a separate sub assembler for the trigger group?

24 A. Yes.

25 Q Now this person that inspects this trigger and trigger

Linde - Cross
155

2 connector, he does so 100% but he just does it visually, isn't
that right?

3 A. Well, what do you mean just visually?

4 Q. Well, he just looks at it doesn't he?

5 A. Well, he'd either look at it visually or if there was some
6 specific thing he might use what we call a function gauge.

7 Q. Okay. What I'm worried about is the size of the parts in
8 this relationship, the trigger and trigger connector.

9 A. Yes.

10 Q. Would he just look at them visually in this respect?

11 A. He could look at them visually, yes, because he handles
12 enough and if there was a question then he could put a
piece
13 of shim stock or a feeler gauge under it.

14 Q. But normally he just looked at it visually, didn't he?

15 A. Yes, he would.

16 Okay. Now --

18 I mean when you handle parts like that with anything after
you've done it a while you don't have to gauge every one, you
can look at -- when you check them, and you check them with
your eye and your eye can tell you whether you should gauge it
21 Or not.

22 In the Lewy rifle, if I could find it here, the problem we
23 had -- those are the figures down here -- was only 1,000th or
24 2,000ths of an inch, or maybe even a half a thousandth of a
25 Inch. Anywhere from 2 1/2 thousandths to a half thousandths.

Linde - Cross

156

A. How is that a problem?

Q. If there is an interference between the trigger connector and the sear because the trigger connector can rise up higher than the sear.

A. Yeah, but that is the specification.

Q. I understand that, but --

A. Some assembler would not throw that trigger and trigger assembly -- or that trigger out.

Q. Could your inspector or could your assemble detect with his eye -- with his eyes, a difference of a half a thousandths, thousandths, thousandths and a half?

A. No, and we wouldn't ask him to.

Q. All right.

A. When you were talking about that I thought you were talking about -- is if you take parts and you look and you say is it like 20,000ths or 30,000ths, something that's definitely different, and your eye can pick that up. Now if you get down to thousandths, we never would inspect -- we, you know, use many dial base gauges which have the dial indicators on them. In fact, we're one of the biggest users of dial indicators the country.

Q. I understand that, but we're talking about this inspector.

A. Yes.

Q. At this point you said he visually inspected pieces

157

1 A. Yes.

2 Q -- in your testimony yesterday.

3 A. Yes, he does.

4 Q. All right. Now after that he puts them in the fire con-
5 trol system, right? At least shortly after that.

6 A. Yes, he does.

7 Q. And that's the last time these parts are ever seen outside
8 the rifle in the process of the manufacture all the way till
9 the point you sell the rifle.

10 A. No, as I said before your critical measurements of your
11 trigger assembly are viewed right through the view hole.

12 Q Well I mean the whole part. That's the last time they are
13 ever outside of the rifle.

14 A. You see the bottom of the trigger, you do not see -- you
15 see the part of the connector, yes.

16 Q It's a simple question.

17 A. Yeah.

18 Q. The last time these two parts are outside of the rifle
19 entirely is at the point that he finally inspects them vis-
20 ually and then puts them into the fire control housing.

21 A. That's right.

22 Q. Okay. Then the test you have, those nine FSR tests that
23 occur over a period of time in the three -- in the final
24 assembly and the gallery test and the final inspection.

25 A. Oh. no. No. when the sub assembler puts the assembly

Linde - Cross

158

1 together he checks the trigger to make sure that he's got good
2 trigger retraction and he checks the sear to make sure he's
3 got sear retraction. He puts it on the ten power optical com-
4 parator and he sets all those key adjustments on the ten power
5 optical comparator.

6 Q. I'm not talking about the trigger pull or the overtravel
7 or the engagement or any of those measurements at this point.

8 I'm talking about the relationship between the trigger and the
9 trigger connector. There's no test done for that on the opti-
10 cal comparator because you can't even see the trigger on it,
11 can you?

12 A. No, there isn't.

13 Q. When you look through that little view hole you only see
14 the trigger connector.

A That's right.

16 Q So the next test in which you could possibly test the
17 function of the trigger and trigger connector, you don't do it
18 directly, is the FSR test, right?

19 A That's right.

Q'. And you do that nine times.

A. That's right.

22 And we've talked about that.

23 A. Yes.

24 Q. We don't need to do it again.

25 A. Yes, we have.

Linde - Cross

Q. Now you mentioned that one of the quality control functions in the assembly of the bolt action rifles in all the

700s I think are given over to the assemblers. You turned a

lot of the quality control functions over to them, right?

A. No.

Q. I thought that was what you said.

A. I said that in Remington, as a general rule, we try to

involve the operators, and they are a part of the operation, and like when they're running a machine they're the ones who control the machine and the only extra quality that we have is we have auditors who come around and audit what they're doing on a random basis. But we hold that operator responsible for what he's doing. Now in the final assembly, it's essentially the same, yes. That operator or assembler, he's responsible for putting it together. Now we audit his work directly plus we audit him from the warehouse. When those guns went from the final inspection into the box with the owner's manual, they go to the warehouse. Then every day we pull out about of our production, we take it back to a quality control room, we open up the box, we check for the owner's manual, we check to make sure everything agrees, we look the thing all over visually and do essentially the same test that the final inspector did, then we take it to the gallery and we do essentially three times greater tests than was done previously in the gallery, then we bring it back and we tear the rifle apart

Linde - Cross

160

and we check over all the parts and then put it back together
3 again. Now if that assembler or inspector or gallery tester

4 didn't do his job, then he's the guy that we lean on and

5 that's reported every week.

6 Q. You also put that assembler on an incentive system in

7 which he's paid more for the more he produces. Is that right?

8 A. Oh, yes. He's paid up to 130%, as I said yesterday.

Q. I remember that. What's the most important goal for.

10 Remington in the design of rifles? You mentioned several terms
yesterday, you mentioned liability, you mentioned accuracy, I think
you mentioned attractiveness or an attractive rifle.

14 A. Appearance, yes.

Q. Appearance is the word you used. Did you mention safety
15 yesterday?

16 A. Yes, I believe I did.

17 Q. Out of those I think I -- have I collected the terms that

19 you used to describe the Model 700?

20 A. In essence.

Q. Which of those is the most important design goal at
22 Remington?

23 A. I'd say that probably safety is the most important, and I

24 view that from probably the culture that we came from.

25 Q. All right.

A. If you take a look at the firearms factory right now they

161
went two and a half years without a lost work day injury. You
2 know, there's really a safety awareness there.

3 Q Can you unload the Model 700 Lewy rifle on safe?

4 A. No.

5 Q. Can you unload the Model 725 rifle on safe?

6 A. You can load the -- let me go back. You can unload the
7 Lewy rifle with it on safe, you can unload the
8 Q. How do you unload the initial chambered round in the Lewy
9 rifle on safe?

10 A. Just as I demonstrated. What you do is you move from the
11 off safe to the on safe -- pardon me, you move from on safe to
12 the fire position, you raise the bolt handle and you put it
13 back in the safe position.
I understand that. What I'm getting at is you have to,
14 for the initial chambered round which is the one Mike Lewy was
15 unloading, you have to move the rifle to the fire position.
Is that right?

16 A. Yes, you do.

17 Q Therefore in the sequence of unloading you've got to take
18 the rifle off safe, right?

19 A. That's right.
Does that match up with your design goal of safety in the
20 manufacture of rifles?

21 A. Yes, it does.

22 Q Okay, you were a little better in the Model 725 weren't

Linde - Cross

162

you? That one could be unloaded on safe because you have a three position safety, right?

A. The Model 725 could be unloaded on the fire position or it could be unloaded in the safety position.

Q. But it had the ability to be entirely unloaded in the safety position, right?

A. Yes, it did.

Q. And the Model 788 manufactured after 1974 when you removed the bolt lock, it could be unloaded on safe too, right?

A. Yes, it can.

Q. And other Remington firearms. I'm not talking necessarily about bolt locks, most of the other ones, all the ones that I know, have the capability to be unloaded on safe, don't they.

A. Yes, but you're talking about a different class of firearms. If you wanted to get into other classifications

Q. I don't want to talk about

A. No, you opened this up.

18 AR. HEADLEY: Let him finish, don't cut him off now.

19 You opened that up.

20 BY THE WITNESS:

21 A. If you take the Winchester Model 94 which is the singu-

22 larly most popular rifle in the country, it was what -- 40% of

23 the rifles sold they're that rifle, it doesn't even have a

24 safety and you have to -- when you unload it you have to put

25 every live round into the chamber with the trigger -- with

Linde
163

1 your hand coming up towards the trigger.

2 Q. I'm talking -- my question was about Remington rifles.

3 A. Yes.

4 Other model Remington rifles.

5 A. Yes.

6 Q. We're not talking about any other models --

7 A. Yes, but I'm saying each kind of a rifle has its own

8 specific requirements from the design and its own way that you
9 have to handle it.

10 Q. Can all of the other Remington rifles, Remington firearms,
11 be unloaded on safe other than the bolt action rifles we've
12 talked about here today? They cannot be.

13 A. Okay, now what time frame are you talking about?

14 Q. Let's talk about the present.

15 A. The present time?

16 Q. Yes.

17 A. Yes, they couldn't be.

18 Q. In 1982 you finally made the change in the Model 700 so
19 you could unload it on safe too, right?

20 A. That's right.

21 Q. now you mentioned that -- I'm kind of confused. Mr.

22 Sperling testified that the bolt lock is not a safety fea-
23 ture. I think you testified yesterday that the bolt lock
was a safety feature.

25 A. I don't know whether I did that.

Linde
164

1 Well let me figure out what your position is.

2 A. Okay.

3 Q. Is the bolt lock a safety feature or is it not a safety
4 feature?

5 A. The bolt lock is a feature that holds the rifle in the
6 ready to fire position.

7 Q. is that --

8 A. That's what the bolt lock does.

9 Q. Is that a safety feature?

10 A. You could construe it as being a safety feature depending
11 on the conditions that you're in.

12 Q. Why would you construe it as a safety feature?

13 A. Well, you know, you could be coming and Quizzing me and
14 saying I picked up the 700, I pulled it up to fire it, it was
15 a life threatening situation and it didn't fire. It's because
16 the bolt lock wasn't -- or because the rifle was not in its
17 battery position. Now I'm stretching it a little bit, but you
18 'know, you see what I'm saying. The bolt lock is a function to
19 hold the rifle in a ready to fire position.

20 Q. Well how often does that condition occur in comparison to
21 the unloading sequence that Mike Lewy went through and other
22 shooters go through every day?

23 A. It would be less.

24 Q. Significantly less, correct?

25 A. It would be less, yes.

Linde - Cross

165

Q. Isn't it then the absence of a bolt lock in Remington's
2 consideration of design goals of safety, wouldn't that be a
3 goal of Remington to eliminate the bolt lock in the Model 700?

4 A. No.

5 Q. Was it a safety consideration to remove the bolt lock then?

6 A. Not that I'm aware of.

7 Q. And that's what your understanding is of Remington --

8 A. That's right.

9 Q. Now you talked yesterday about the housing on the Model
10 700.

11 A. Yes, I did.

12 Q. Did the Model 700 function without that housing?

13 A. No, it would not.

14 Q. Is that because of the resiliently mounted trigger connec-
15 tor needing something on either side of it to keep it from
16 sliding sideways on the trigger?

17 A. No.

18 Q. Doesn't it slide sideways some?

19 A. It could.

20 Q. Okay. Now you mentioned some of the tolerances the other
21 day between the trigger housing side plates.

22 A. Yes.

23 Q. I'll just draw a side view here, and the pieces that work
24 within it.

Linde - Cross

166

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21 day between the trigger housing side plates.

22 A. Yes.

23 Q. I'll just draw a side view here, and the pieces that work
24 within it. I think you mentioned -- if I remember right, you
25 mentioned the sear and you mentioned the trigger and you men-

Linde - Cross
167

1 tioned the trigger connector-- I'll use TC Again, okay? And
2 if I remember correctly you said that the range of tolerance
3 for the sear is from one to seven thousandths, that's .001 to
4 .007, is that right?

5 A. Yes.

6 Q. All right. That means if you've got a sear operating in
7 here, I haven't drawn exactly equal but the distance, the
8 total distance between the sear and the housing could be any-
9 where from one thousandth to seven thousandth and be within
10 specifications, right?

11 A. As far as clearance, yes.

12 Q. As far as clearance. And then the trigger was even less,
13 the trigger was one thousandth to five thousandths?

14 A. Yes.

15 Q. All right. What's the trigger connector?

16 A. The trigger connector, let's see, it was one thousandth to
17 13 thousandths.

18 Q. You need more room for the trigger connector. And that's
19 the total amount, that's this area plus this area added
20 together, right?

21 A. Pardon me?

22 Q. These ranges are what the total amount of clearance should
23 fall within.

24 A. That's right.

25 Q. The clearance on either side could be half of this, right?

1 A. That's right.

2 Q. So anywhere from just on this top one here 0005, 5/10000,
3 up to 0035, right?

4 A. Yes.

5 Q. Okay. An so you could have as little as 5/1000 on one
6 side of that trigger connector.

7 A. That's right.

8 Q. Now you said you didn't think any dirt or debris or any-
9 thing in there could gum up the parts inside.

10 A. No. no, what I said was that the small amount of clear-
11 ances, the particle sizes that could get in there is severely
12 limited. It's like with the situation here where you're say-
13 ing that the half a thousandths clearance to three and a half
14 is your --or even from one to seven, the biggest particle that
15 could get in there would be a 7/1000 particle.

16 Q. And you don't think that that could interfere with the
17 operation of the trigger or the trigger connector?

18 A. Yes.

19 Q. How about the sear, haven't you had problems with things
20 interfering in between the sear an the side housing?

21 A. What do you mean "problems"?

22 Q. Well, haven't you run into instances where you could get
23 burrs for instance from the manufacturing process or other
24 particles I'll call foreign particles between the sear and the
25 side plate housing in that dimension?

Linde - Cross
169

1 A. Well, your probability that it will happen is very small
2 but in any firearm whether the thing is wide open or closed
3 up, if you get a burr or if you get a particle in a certain
4 place, yes, you can bind it, you can bind any mechanism.

5 Q So it can bind, right?

6 A. Yes, you could bind it.

7 Q. All right.

8 A. But the probability that it will happen is very remote.

9 Q. I understand. Now, isn't it also a fact that just some-

10 thing like gun oil which might accumulate over a period of time
can bind this system, the trigger connector or the sear?

12 A. Yes, you could say given enough gun oil you could bind it
13 up.

14 Q. Okay.

15 A. But the probability of that is also very remote.

16 Q. Remington has run into a lot of instances, haven't they,

17 where the gun oil has bound the system, for instance?

18 A. No, I wouldn't say that they've run into a lot of
instances. They've run into instances.

20 Q. Those are recorded in some of the gun examination reports.

A. Yes, that's right.

22 Q. And by the way, I don't know where our cut away went.

23 MR. MILLER: John, do you have the cut away rifle?

24 MR. SHAW: Sure.

BY MR. MILLER:

Linde - Cross
170

1 Q. Does Remington recommend a gun oil?

2 A. I guess before I go forward, could you tell me what this
3 line of questioning has to do with the Lewy rifle? What has
4 oil or gum up or any of this have to do with the Lewy rifle?

5 Q. Well, it may not necessarily be oil or gum up. We're
6 talking about the trigger connector staying out

7 THE COURT: Mr. Linde, the objections are supposed to
8 be made by your counsel and you're not supposed to ask ques-
9 tions of counsel.

10 THE WITNESS: I'm sorry. I wasn't aware of that.

THE COURT: Well, it sounds very logical to you, I
12 can understand that, but that's the proper way. Proceed.

13 BY MR. MILLER:

14 Q. Does Remington or has Remington at any time ever
15 recommended oil for use in the 700?

16 A. I know they've recommended rim oil at one time.

17 Do they recommend it now?

18 A. The last two years I couldn't say, no.

19 Q. Is it common for hunters to oil their rifles with some-
20 thing so that they don't have that kind of noise out here in
21 the bolt and with the similar kind of friction occurring in
22 the fire control system?

23 A. It's quite common to oil like the bolt and receiver and as
24 far as oiling the trigger assembly, that mechanism pretty much
25 runs with the dry lubricant that we put in it at the factory.

Linde - Cross

171

Q. It stays in forever?

3 A. The lithium disulfide does, yes.

4 Q. Does this hole to you look like a possible spot to insert
oil, that's the view hole that you've been talking about.

5 A. Not to me it doesn't.

7 Q. Now, if you've only got half a thousandths or one ten thou-
sandths -- excuse me, five ten thousandths of a clearance in
9 one side, is that enough for a lubricant such as oil to even
operate in the fire control housing?

10 A. Well, it would depend upon the lubricant.

11 Q. Okay. let's talk about some common lubricants like WD40,

12 3 in 1 oil or gun oil that you can buy in any gun shop, is

14 that enough space for oil to operate in the fire control sys-
tem?

16 A. If it was lubricated correctly, yes.

17 Q. Five ten thousandths is enough space?

18 A. Yes. Yes, I think if you read the manual on any firearm,

19 what it says is if you apply the lubricant and then you wipe
it down.

21 Q. You can't wipe down the internal parts of the fire control
22 system, can you?

23 A. No, not unless you take the parts out.

24 Q. And you don't do that.

25 A. You're not supposed to do that, that's right.

Q. You can't even clean those internal parts, can you?

Linde - Cross
172

1 A. Yes, you can.

2 Q. Without taking them out? Now did Remington change its
3 specifications from 1975 to 1980 on the trigger, is that when
4 they increased the length of the trigger, that face we were
5 talking about, so it would fit better? That's a poor ques-
6 tion, let me go back. You were talking about just a couple of
7 changes in specifications. From 1975, before the manufacture
8 of the Lewy rifle, to the present, after the manufacture, did
9 they change this dimension?

10 A. We just talked about that.

11 Q. Right, they did change that.

12 A. Yes.

13 Q. And they made it a little bit longer, right?

14 A. We changed it to get rid of the filing on the bottom.
But didn't it result in this dimension here

16 A. Yes.
The space --

A. Yes.

Q. -- getting a little longer.

20 A. Yes. We redimensioned the part, yes.

Q. And they reduced the tolerance like we discussed before
today.

23 A. Yes.

24 Q. Did Remington change since 1975, from before the manu-
25 facture of the Lewy rifle to the present, have they changed

1 the sear safety cam? There we go. have they changed the
2 drawing of the sear safety cam in that time in any relation
3 that has to do with the left of the sear safety cam?

4 A. Anything that has to do with the lift?

5 Q. Yeah, did they change the sear safety cam in that drawing
6 to control the lift of the sear safety cam when it was put on
7 safe?

8 A. If you want me to answer that I'd have to take a few
9 minutes to figure it out.

10 Q. Well let me ask you this --

A. I'd have to go back to the other drawings.

12 Q. Well, let me ask you this. Didn't Remington after the
13 manufacture of the Lewy rifle try and tie down the lift of the
14 safety cam on the rifle by putting in a measurement -- I can't
15 see if very well here, putting in a measurement right here to
16 tie down the length of that tang which is the part that's
17 Lifted?

18 We changed the dimensioning. We changed the dimensioning
19 of the sear.

20 Okay.

21 A. They made a direct dimension between this surface and the
22 sear surface.

23 Q. And didn't that control or tie down the amount of sear
24 lift on the model 700 rifle?

25 No. why we did that is we had a carbide die that was mak

174

1 ing this part and we made the part for a number of years and
2 we thought, when we were going through this we thought we
3 could redimension it and tie the relationship better together
4 so that if we had need of another carbide die that we would
5 have that carbide die made to the relationship. But we knew
6 exactly what we were getting and as anybody could check just
7 putting the part up on an optical comparator and you can see
where you're at. So if you took a sear that was made before and
the sear that was made to this, there would be no differ-
10 ence in the two sears.

Q. But you did tie down a centrality --

12 A- Yes, we changed the drawing.

13 Q. You wanted a specification your people could look at so
14 that they knew how much that -- how long that tang is supposed
15 to be so it doesn't vary so it would get too big or too small.

16 A- No, no, I wanted a specification so that when they made
more carbide dies that when you threw it up on a comparator it
18 would be the same as what we had been making.

19 Q That was the only reason?

20 That was the key reason, yes.

21 Q There were other reasons?

22 A Not that I'm aware of. But, you know, you've got more
23 than one person working on these things.

24 Q. Now we've been talking about a lot of close tolerances in
25 this rifle. We've been talking about tolerances of five ten

Linde - Cross
175

1 thousandths or a thousandth or seven thousandths, a minimum of
2 one thousandths here. We've been talking about tolerances for
3 instance here we've got two thousandths tolerance.

4 A. That's right.

5 Q. Three thousandths tolerance here. Some very small tol-
6 erances.

7 A. But that's why Remington is the company it is is because
8 we were able to machine to very extremely tight tolerances for
9 years, in fact we were the first one to make the typewriter.
10 The reason was that we could handle and we could move steel
11 and we could make it to tight tolerances.

12 Q. But when you made this change here on the 12 thousandths
13 maximum play of the trigger and the trigger connector to 6
14 thousandths and you shrank it down, that was a pretty big
15 change, wasn't it in terms of all these other tolerances.

16 A. A change in tolerance, yes.

17 Q. A pretty big change compared to all the tolerances you've
18 been working with. You cut it in half, you took 12 thou-
19 sandths and you cut it down to 6 thousandths.

20 A. We changed the trigger, yes.

21 Q. And the resulting tolerance was decreased by half, a full 6
thousandth.

23 A. That clearance ended up reduced by half and also the
24 change on the other end where-we did not have to file any of
25 the triggers.

Linde - Cross
176

2 Q But that was a big change, wasn't it, in relation to all
3 the tolerances you were working with in this rifle?

4 A. It's a change.

5 Q. And that change, wasn't it designed to control the load of
6 the trigger and trigger connector.

7 A. It was changed to control the fit of the connector to the
8 trigger and so that we didn't have to file any.

9 Q. That's right. And if you control the fit of the trigger
10 to the trigger connector, doesn't that also reduce the possi-
11 bility of interference between the trigger connector and sear?

12 A. That would be a result.

Q. Okay. Now, I want to show you this again, I kept it up
13 here for a reason, just so you understand, this talks about
14 the number of FSRs you caught in your gallery, right?

16 A. That talks about the number of FSRs that are picked up in
17 gallery tests.

18 Q. All right. Now you said earlier, if I remember correctly,
19 that your gallery or the other procedures, your nine tests,
20 you're going to catch all FSRs that come through the factory.

21 A. That's what I said.

22 Q. Didn't Remington estimate in 1975 in its Product Safety
Subcommittee -- excuse me, 1979 at the Product Safety Sub-
24 committee, January 2nd 1979, that about 1% of the rifles in
25 the field were susceptible to firing when the safety was
released?

Linde - Cross

177

A. I know little about that.

2 Q. Well, did they or did they not estimate 1%?

3 A. No, the estimate was 1%. At that time there were guns
4 coming back to customer repair, this was after the recall on
5 the 600 and we were asking to get back every rifle that we
6 could that had any kind of safety complaint. Those rifles
7 came back, plus the other normal 700 rifles that come back in
8 for arms service, of all the guns that came back to us for
9 whether it was trigger complaint or any complaint, there was
10 what? What was your percentage?

11 Q. One percent.

12 A. No, it was less than that and it was a sample of all the
13 guns that were coming back in the first place and so that's
14 not a sample of the population, that's a sample of the guns
15 that you've already got a problem with.

16 Q. Let me show you this Product Safety Subcommittee minute,
I-12. Isn't there an estimate of 1% of the rifles there that
18 would fire when the safety is pushed from the safe to the fire
19 position?

20 MR. HEADLEY: What exhibit?

21 Q. You're reading exhibit

22 A. 1-12.

23 MR. HEADLEY: What's the date of that?

24 A. It's January 2nd 1979. Okay. I see where you're talking
25 about. Are you saying that during this period, June '78 to

Linde - Cross

178

the present 200 pre '75 model 700s, is that what you're talking about where you got the 1%?

Q. Well, it's where they make the estimate of 1% in there.

A. Okay. During this period 200 pre '75 model 700s were

returned to Ilion for repair, and this is what I said, these

are rifles that are being returned to Ilion for repair and it

was found that two could be tricked, two out of the ones that

are already being returned for repair, one because of insufficient clearance between the sear and the connector and one

because of a warped connector. Based on this sample about 1%

of the pre '75 model 700s in the field may be subject to

tricking.

Q. 1% of the pre '75 model 700s would be subject to tricking.

A. Yeah, that's silly isn't it?

Q. Well that's what they say, I don't know.

A. That's what it says and that's sure stupid.

Q. Let's take 1% of those in the field at that time. It's

been estimated that was over 2 million rifles.

A. I'm not going to take 1%, not based on that.

You don't agree with that?

A. No, I do not.

Q. Well, even if you don't agree with it, would you agree

with me that 1% of the rifles in the field if it's 2 million

it would be 20,000 that are susceptible to that condition.

A. I can't even agree to that because in that time there

Linde - Cross
179

1 wasn't 2 million rifles made.

2 Q. All right, 1,900,000 or 1,800,000.

3 A. Yeah.

4 Q. So we're going to have 20,000 or 19,000 or 18,000 or
5 17,000, can you agree with that?

6 A. I don't agree with the basis of that so I, you know, you
7 can say what you want but I don't agree.

8 Q. Well, do you agree with the fact that Remington later
9 reduced its own estimate in a later Product Safety Sub-
committee meeting to 6% -- 6/10 of 1%, .6%.

A. I don't know that.

12 Q. You don't know that either?

13 A. If you want to give me the minutes, I can go through it
14 but I don't

15 Q. We've done it before, we won't do it again. That would
still be 12,000 rifles, right?

17 A. Yes, but that still would be based on the same information
the rifles that are already coming back to you.

20 You know, if you're doing a statistical sample, that would
be a horrible way to say that it was statistically sound.

21 Q. Well, isn't that the estimate of the Product Safety
Subcommittee?

23 A. I said what I thought of it.

24 Q. Now, the 40X rifle, this is a 34 magnum.

25 A. The 40X? I don't know what the specifications are.

Linde - Cross

180

Q. Can it be as low as a couple of ounces?

A. There's a special 40X made that I called the two ounce trigger and it's not the same assembly as the 40X, it's got another connecting link in there, it's got another mechanism in there.

Q. And will the 40X trigger go down normal -- is it supposed to go down less than two lbs?

A. I don't know, I think two lbs. is the min limit.

MR. MILLER: Your Honor, we have no more questions.

THE COURT: Redirect? Well, it's Q:45. Ladies and gentlemen of the jury, I really don't like to do this because
12 it's kind of a sign of weakness but I am weak and I'm going to

13 recess this trial till Monday morning. I'll give you Friday

14 off. I just it's just got me down, I've got to admit, and

15 so we'll resume this trial for 9:30 Monday morning. You'll be

16 excused until that time. The Court will stand in recess.

17

(COURT IN RECESS AT 4:46 P.M.)

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21 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT OF THE
RECORD OF PROCEEDINGS IN THE ABOVE ENTITLED MATTER.

22

23

24 June 23, 1986

25