

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

EVELYN LEWY and JACK LEWY,	)	
	)	
Plaintiffs	)	
	)	
v.	)	Civil Action
	)	No. 83-3172-CV-S-2
REMINGTON ARMS COMPANY, INC.,	)	
and K MART CORPORATION,	)	
	)	
Defendants	)	

Continued deposition of ROBERT B. SPERLING taken pursuant to agreement on behalf of Plaintiffs at the offices of E. I. du Pont de Nemours & Company, Brandywine Building, (Conference Room B-11376), Wilmington, Delaware, beginning at 3:00 p.m., on Tuesday, November 5, 1985, before J. Edward Varallo, Registered Professional Reporter and Notary Public in the State of Delaware.

APPEARANCES:

Richard C. Miller, Esq.  
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for Plaintiffs

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1                   ROBERT B. SPERLING,  
2                   having been first sworn on oath, was  
3                   examined and testified as follows:

4                   EXAMINATION

5 BY MR. MILLER:

6 Q.           Now, Mr. Sperling, my name is Richard  
7 Miller. We've met before at some prior depositions.  
8 As you know, for purposes of the record, though, I  
9 represent Mr. and Mrs. Lewy in this lawsuit in which  
10 they allege that a Remington Model 700 bolt-action  
11 rifle fired upon release of the safety, injuring  
12 Mrs. Lewy.

13                   I know you're an attorney so as I did  
14 with Mr. Partnoy I won't go through my introductory  
15 comments other than to say, of course, we're taking  
16 this down in the usual manner but that pursuant to  
17 court order we are videotaping this deposition. If  
18 you have any questions or anything or --

19 A.           No.

20 Q.           You understand what's going on then?

21 A.           Yes.

22 Q.           Could you state your full name for the  
23 record, please.

24 A.           Robert B. Sperling.

1 Q. And that's S-p-e-r-l-i-n-g?

2 A. That's right.

3 Q. What is your current address, Mr. Sperling?

4 A. 1617 North Franklin Street, in Wilmington.

5 Q. And what is your current telephone number?

6 A. Well, my home number is 652-6858.

7 Q. And your Social Security number, if you know

8 it?

9 A. 143-28-9937.

10 Q. How long have you lived at your current

11 address?

12 A. Since June 3rd of this year.

13 Q. Everybody in Remington at Ilion had lived

14 there for twenty and thirty years and you and

15 Mr. Partnoy have only lived there months.

16 Do you have any plans to move in the

17 near future?

18 A. No.

19 Q. Could you give me your educational

20 background, college and law school and any graduate

21 work you might have done?

22 A. Yes. I received a Bachelor of Arts degree

23 at Northwestern University in 1958, graduated from

24 Stanford Law School in 1961.

1 Q. Do you have any engineering or technical  
2 training after high school?

3 A. No.

4 Q. That's both formal college or technical  
5 school training and also informal training which  
6 might have been provided by way of seminars, inside  
7 or outside of the Remington plant. Is that right?

8 A. I understand and it's still no.

9 Q. Okay. And have you listed all the degrees  
10 that you have?

11 A. Yes.

12 Q. Are you a hunter or a benchrest or target  
13 shooter?

14 A. No.

15 Q. First time I have had that answer to that  
16 question.

17 I'm going to hand you what's been  
18 marked as Plaintiff's Exhibit KKKK. As you can  
19 tell, we've been shuffling paper around. Is that  
20 your employment history with Remington?

21 A. Yes, it is.

22 Q. Ever since you've been here, you've been in  
23 that same position, and what is it titled?

24 Associate counsel?

- 1 A. That's right.
- 2 Q. And you came, I believe, it was 1970.
- 3 Right?
- 4 A. 1970, right.
- 5 Q. Is the time you came the time when
- 6 Mr. Partnoy was promoted to general counsel?
- 7 A. That's correct.
- 8 Q. Are there only -- ? Were there only the two
- 9 of you on the legal staff of Remington in that time?
- 10 A. Yes.
- 11 Q. And has that been the case up until I
- 12 understand fairly recently you both have become
- 13 counsel to DuPont actually?
- 14 A. Right. Well, I --
- 15 Q. Was there anybody else in there?
- 16 A. Yes. I can't -- Well, first of all, we
- 17 were the only two in the general legal area. There
- 18 were three patent attorneys at Remington ever since
- 19 I've been there. Somewhere in the middle '70s there
- 20 was an addition to the general side, Robert Kirk
- 21 came in; and sometime 1981 perhaps, '82, Bill
- 22 Ericson switched from the patent side to the general
- 23 side.
- 24 Q. Where are Mr. Kirk and Mr. Ericson now? Are

1 they still with the company?

2 A. Yes. Mr. Kirk, who specialized in labor  
3 law, went to the employee relations department of  
4 DuPont about a year ago. Bill Ericson is stationed  
5 at Ilion.

6 Q. Now, he's the one that was former patent  
7 attorney?

8 A. Right.

9 Q. What does he do at Ilion?

10 A. He has a position, he's sort of like a  
11 coordinator for litigation matters. A consultant,  
12 handles depositions and interrogatory answers,  
13 compiling those, things like that.

14 Q. There was a set of requests for production  
15 sent out -- excuse me -- request for admissions sent  
16 out in this case. Were you involved in answering  
17 those at all?

18 A. I saw a copy of them. I think the actual  
19 answers were worked up when I was not present.

20 Q. Who did the actual answers? Do you know?

21 A. I think it was a combination of Jim Hutton;  
22 I don't know who else from Ilion would have been  
23 there. Jim Hutton's name comes to mind and I may  
24 have had some input with Jim before he went to work

1 out the answers.

2 Q. From the legal standpoint, excluding of  
3 course your outside counsel, would you have been the  
4 person who assisted Mr. Hutton in preparing those  
5 answers?

6 A. Yes.

7 Q. Now, you just became, I think, in the past  
8 year or two an attorney for DuPont.

9 A. As of June of this year.

10 Q. Have your duties changed as a result of that  
11 move?

12 A. I'm still as of now handling Remington  
13 litigation. But my duties have expanded.

14 Q. Is that the main thing that you do as  
15 associate counsel under Mr. Partnoy, oversee the  
16 litigation?

17 A. That's one of the things. Probably the  
18 major part of my time through the years was that.

19 Q. So then you would be familiar with the Model  
20 700 litigation that's gone on over the past ten,  
21 fifteen years?

22 A. Yes.

23 Q. And probably the most familiar as far as the  
24 legal standpoint is concerned at Remington?

- 1 A. I would say so.
- 2 Q. And the same would be true of the 600  
3 litigation as well?
- 4 A. Yes.
- 5 Q. I'm going to hand you what has been marked  
6 as Plaintiff's Exhibit LL, which is a memo from J.  
7 C. Hutton to certain people, dated October 14, 1983,  
8 and some attached pages. My first question will be,  
9 have you seen that before, the memo or the attached  
10 pages?
- 11 A. (Pause) Yes, I have.
- 12 Q. When did you see that memo? For what  
13 reason?
- 14 A. I don't remember the reason. I remember  
15 seeing the memo and going out to these individuals  
16 to alert them to the fact that depositions were  
17 going to be taken in this case. I believe the name  
18 of the case was Thomsen.
- 19 Q. The California case?
- 20 A. California case, yes.
- 21 Q. Now, did you assist Mr. Hutton in preparing  
22 the suggestions contained in the attached pages?
- 23 A. No.
- 24 Q. Was this memo provided to those people then,

1 to the best of your knowledge?

2 A. The best of my knowledge, and I only say  
3 that because of the list, but I believe that was the  
4 intention.

5 Q. Have you ever been a member of the product  
6 safety subcommittee of the operations committee at  
7 Remington?

8 A. Have I ever been?

9 Q. A member, yes.

10 A. No. But I have attended many meetings of  
11 the product safety subcommittee.

12 Q. Did you usually attend those meetings in  
13 Mr. Partnoy's absence?

14 A. Yes. And I've attended when he was there  
15 also.

16 Q. But if he was gone, were you the one who was  
17 supposed to fill in?

18 A. I'd be the one, yes.

19 Q. How about the operations committee, have you  
20 ever attended any of those meetings or been a member  
21 of that committee?

22 A. I've never been a member. I don't believe  
23 I've ever attended. Can't remember if I have.

24 Q. There's also a gun examination group or gun

1 examination committee. Have you ever been present  
2 during one of their examinations?

3 A. No, I've never actually attended one of  
4 their sessions.

5 Q. You of course then are not a member or have  
6 not been a member of that committee. Right?

7 A. No.

8 Q. You have been present -- and I was trying to  
9 remember before you came in -- several times when I  
10 have been out here in this case. Were you present  
11 during either the first or second examinations of  
12 the Lewy rifle?

13 A. No, I was not.

14 Q. I don't believe then you yourself have  
15 examined that rifle, have you?

16 A. No, I haven't.

17 Q. Have you read the reports that resulted from  
18 that examination?

19 A. I may have. I don't remember right offhand  
20 any particular finding. But I may have seen them.

21 Q. Have you discussed that examination or those  
22 reports with anybody at Remington other than of  
23 course your attorneys before appearing here today?

24 A. Yes.

1 Q. Have you done that in the course of working  
2 this case, in other words, as part of your  
3 responsibilities?

4 A. Yes.

5 Q. Who is the person in the technical area that  
6 you usually work with in litigation on bolt-action  
7 rifles that you rely on for technical expertise? Or  
8 if there's more than one, who are they?

9 A. Well, it varies with the case. It depends  
10 on when the gun comes in for examination who's  
11 available. In this case, it was Jim Hutton, Ed  
12 Sienkiewicz. In the past there have been other  
13 people for other cases, but those are the two for  
14 this case.

15 Q. Who else do you work closely with in the  
16 technical area on perhaps other cases?

17 A. In other -- ? Any case?

18 Q. Bolt-action case.

19 A. Bolt-action cases? Well, I've worked with  
20 John Linde when he was there in that capacity up at  
21 Ilion.

22 Q. Mr. Linde is here now. Correct?

23 A. He's down here in Wilmington.

24 Q. And what is he in here?

1 A. I'm not really sure. He's head or  
2 supervisor or manager of several plants unconnected  
3 with firearms or ammunition.

4 MR. HEADLEY: He's scheduled to give  
5 his deposition and unless you've got some reason to  
6 ask that, Mr. Linde will be available tomorrow.

7 BY MR. MILLER:

8 Q. What was the reason for the move down here  
9 of you and Mr. Partnoy and Mr. Linde, if you know  
10 it?

11 A. I don't know about Mr. Linde. Mr. Partnoy  
12 and I moved down because they were consolidating the  
13 legal departments and closing up the building we  
14 were situated in.

15 Q. I interrupted your list. After Mr. Linde,  
16 if there's anybody else you work with, please go  
17 ahead and tell me.

18 A. I have worked with Bill Warren, Jim Stekl.  
19 That's about it for bolt-action rifles.

20 Q. Have you discussed this case with any of  
21 those individuals other than Mr. Sienkiewicz and  
22 Mr. Hutton whom you mentioned were working with you  
23 in this case?

24 MR. HEADLEY: I think, not to mislead,

1 the witness -- I thought your question was who was  
2 present during the Lewy gun exams.

3 MR. MILLER: No, that wasn't my  
4 question.

5 MR. HEADLEY: It wasn't?

6 MR. MILLER: No.

7 MR. HEADLEY: Well, Mr. Sienkiewicz  
8 wasn't. I thought that was the --

9 MR. MILLER: No.

10 MR. HEADLEY: He was not. It was  
11 Mr. Hutton. All right, go ahead.

12 BY MR. MILLER:

13 Q. Have you discussed this case with, of  
14 course, Mr. Hutton. Right?

15 A. Yes.

16 Q. Mr. Sienkiewicz?

17 A. I believe I've discussed it with  
18 Mr. Sienkiewicz.

19 Q. Let's go down the list. Mr. Linde?

20 A. I spoke with Mr. Linde yesterday but not  
21 about the gun exam or any technical issue directed  
22 toward looking at the gun.

23 Q. Just probably the matter that the  
24 depositions were taking place?

1 A. Right.

2 Q. How about Mr. Warren?

3 A. No, I haven't spoken to him on this case.

4 Q. Mr. Stekl?

5 A. I may have. Jim Stekl works very closely  
6 with Ed Sienkiewicz. He may have been in the room  
7 at the time, so....

8 Q. Now I'm going to go through a list of  
9 documents and I think my question to you will be,  
10 first, do you know what these documents are by the  
11 name I'm using and, second, have you seen them  
12 before, one or more of them. Then we'll go from  
13 there. Gunsmith call reports?

14 A. I know what they are and I've seen them.

15 Q. For what reasons or on what occasions have  
16 you seen gunsmith call reports?

17 A. In compilation of answers to  
18 interrogatories, production of records.

19 Q. And is that just with respect to this case  
20 or is that with respect to others?

21 A. With other cases.

22 Q. Have you done a statistical study of those  
23 gunsmith call reports to see how many complaints of  
24 FSR or fire on release of safety there are, how many

1 complaints of the trick condition there are in  
2 certain rifles?

3 A. I haven't.

4 Q. Has somebody done that on your behalf?

5 A. Not on my behalf, no.

6 Q. How about gun examination reports?

7 A. Yes, I know what they are and I've seen  
8 them.

9 Q. If I asked you the same questions whether  
10 someone has done a statistical study, either you  
11 yourself or someone on your behalf, of those gun  
12 examination reports to study the different kinds of  
13 complaints, whether they were justified and  
14 different information contained in the report, what  
15 would your answer be?

16 A. The same as before.

17 Q. Gun repair invoices?

18 A. I don't -- No, I don't know them.

19 Q. If I told you these were the invoices sent  
20 in on a Remington form by Remington recommended  
21 gunsmiths charging Remington for repairs that  
22 they've made in the field to a gun under warranty,  
23 would that help you any?

24 A. They may be the reports that were asked for

1 on discovery and produced down in the basement a  
2 year or so ago when you and I were down there. I  
3 may have seen some of them. I didn't review them.  
4 Just to copy them perhaps. If that's what we're  
5 talking about. I'm just sort of surmising from your  
6 description.

7 Q. Some of them came from down there.

8 Are you familiar with Dennis Sonita?

9 A. I know him.

10 Q. Have you ever worked with him in one of  
11 these litigation cases? Has he been on your team,  
12 in other words?

13 A. No, he hasn't. I've talked to him in  
14 connection with depositions he was asked to give.

15 Q. Have you ever talked to him in connection  
16 with any reviews or examinations of bolt-action  
17 rifles he might have conducted as part of the armed  
18 services department?

19 A. No.

20 Q. Have you ever talked with him about any FSR  
21 conditions in bolt-action rifles?

22 A. Not really. I may have been present when he  
23 gave a deposition at which that topic came up.

24 Q. How about gallery test data?

1 A. Well, I assume that's data taken from the  
2 gallery testing. I don't believe I've seen anything  
3 other than perhaps when they were part of a  
4 deposition being handed across the table or  
5 something.

6 Q. This is a computerized summary of  
7 malfunctions based on a certain malfunction code or  
8 index by year and by model and caliber number of  
9 rifle. Then you take that code and you can find out  
10 how many rifles coming off the line out of  
11 manufacturing malfunctioned in a particular way,  
12 fired on release of safety or some other way.

13 A. Mm-hmm.

14 Q. Have you seen that computer printout in any  
15 of those documents that you remember?

16 A. I think I may have seen it once in the prior  
17 set of depositions in this case.

18 Q. Have you ever requested that a test and a  
19 report of that test be done by the testing  
20 laboratory at Remington, the one that Mr. Hennings  
21 is now involved with?

22 A. Have I ever requested the lab to conduct a  
23 test?

24 Q. Right.

1 A. In connection with anything or -- ?

2 Q. I'm going to limit it again to bolt-action  
3 rifles.

4 A. Bolt-action rifles? I may have asked  
5 Mr. Hennings to run tests that would be videotaped  
6 for trial presentation in various bolt-action cases.

7 Q. Have you done that in this case?

8 A. No.

9 Q. In the cases where you have done that, what  
10 types of things have you videotaped?

11 A. I believe it would be to show -- Well, on  
12 reconsideration, mainly that would be shotgun cases,  
13 to show that they do not jar off, to demonstrate  
14 showing the gun dropping, filling the fire control  
15 with debris, dropping it off to show that it doesn't  
16 hang up. I don't have any independent recollection  
17 of a bolt-action rifle but I may have requested  
18 that. That would be the kind of test I would  
19 request.

20 Q. Have you seen any reports done by the armed  
21 services department or division of examinations  
22 they've done independent of the gun examination  
23 committee of Remington bolt-action rifles which  
24 would allegedly fire on release of the safety?

1 A. Again, if I have, it was in connection with  
2 compiling answers to interrogatories and production  
3 of documents.

4 Q. You don't remember any specific report of  
5 that nature, no?

6 A. Not any specific report.

7 Q. Now, have you seen the rifle examination  
8 reports which result from the cases involving  
9 litigation such as those produced in the Remington  
10 case?

11 A. In other cases have I seen them?

12 Q. Right.

13 A. Yes.

14 Q. Is one of those produced in each case, in  
15 each of the pending litigations? Written reports  
16 I'm saying.

17 A. No, I don't think in each case. It would  
18 depend upon what's requested -- At least in the  
19 litigation area it would depend on what's requested  
20 by our attorney. I can't say that every case  
21 fosters a report.

22 Q. Does every case foster an investigation or  
23 an examination of the rifle?

24 A. As far as I've seen, assuming the exhibit is

1 still in existence.

2 Q. If those reports do in fact exist in any  
3 case, would they be in Remington's litigation files  
4 with respect to the cases?

5 A. They should be, except where the report was  
6 generated by an outside expert that Remington  
7 retained. We might not -- It might slip through  
8 the crack and he might send it directly to the  
9 attorney.

10 Q. What outside experts has Remington retained  
11 and used in bolt-action litigation? I'll limit this  
12 to the fire-control system in bolt-action rifles.  
13 And by that I mean the fire control and the safety  
14 system.

15 A. Well, we've used Robert L. Hillberg,  
16 independent gun designer. We've used William C.  
17 Davis, firearms consultant.

18 Q. Where is Mr. Davis from?

19 A. Wellsboro, Pennsylvania.

20 Q. Where's that? I have no idea.

21 A. I think it's up around, fairly close to the  
22 border of New York, if you know where St.  
23 Bonaventure is, Olean, New York.

24 Q. A rough idea.

- 1 A. Pittsburgh, that general area.
- 2 Q. Now, Mr. Hillberg has, as I understand,  
3 recently suffered a stroke, was it?
- 4 A. Yes.
- 5 Q. What other experts have you used?
- 6 A. Outside experts?
- 7 Q. Yes.
- 8 A. We may have used at one time Walter Nass  
9 from southern California.
- 10 Q. How do you spell the last name?
- 11 A. N-a-s-s. I say we may have. I think he was  
12 involved in a Model 788 case and perhaps a 742 case,  
13 which is not a bolt-action rifle. Colonel Crossman,  
14 Edward B. Crossman.
- 15 Q. Where is he from?
- 16 A. He's from Alexandria, Virginia.
- 17 Q. Now, have you used Mr. Crossman or Mr. Nass  
18 on any Model 700 cases?
- 19 A. We've used Mr. Crossman. I really can't  
20 remember if Mr. Nass was ever -- he may have been  
21 retained but I don't remember him at trial or going  
22 much further into the discovery of it.
- 23 Q. What case was Mr. Crossman used on?
- 24 A. I believe he was used on three early cases

1 in the '70s. Schoonover, I believe, was one. I  
2 think that was a 788. Hickman down in Texas was a  
3 Model 700. These would be '72, '73. 1972, 1973.

4 Q. In the Hickman case, what was the allegation  
5 there, as best you remember it?

6 A. I believe that the allegation was that the  
7 gun fired when the young woman was trying to load  
8 the gun in preparation to go out hunting early in  
9 the morning and in doing so, the gun fired and shot  
10 someone in the cabin in the leg.

11 Q. Do you remember any other cases in which  
12 Mr. Nass or Mr. Crossman have been used?

13 A. In the bolt-action area?

14 Q. Yes. I'm going to go through a list of  
15 names with you in a moment, if you'd rather wait and  
16 do it that way.

17 A. Maybe that's better because it might jog my  
18 memory.

19 Q. Let's do it right now and we'll come back to  
20 the documents.

21 A. All right.

22 Q. This is a list of cases to my understanding  
23 involving -- of course we got this from answers to  
24 interrogatories or some sort of discovery --

1 involving claims in which a Model 700 fired on  
2 release of the safety or other similar fire-related  
3 control problems. Now, I'll go through them and  
4 we'll just talk about each one individually. The  
5 Aschlager case, A-s-c-h-l-a-g-e-r. Are you familiar  
6 with that one?

7 A. Yes.

8 Q. Where is that filed, do you know?

9 A. In Texas. Can't be more specific.

10 Q. Do you know what the complaint is in that?

11 A. Generally, that the gun fired without the  
12 trigger being pulled.

13 Q. Do you know if it was a firing upon release  
14 of safety, closing the bolt, jar-off type situation,  
15 FSR?

16 A. I really don't -- That's a pending case and  
17 I'm not even sure if we've even examined the gun.

18 Q. Have you identified an expert in that case  
19 yet?

20 MR. HEADLEY: Now, that's a pending  
21 case and we have this understanding with the court  
22 and with plaintiffs' attorneys that if there's any  
23 information on a pending case, Mr. Sperling, that  
24 you believe to be confidential at least for present

1 purposes in view that it's a pending case and the  
2 plaintiff's attorney for the other side also might  
3 have other similar confidential information of his  
4 own, you are not to disclose it.

5 So now you're an attorney and I'm going  
6 to leave it up to your judgment.

7 THE WITNESS: All right.

8 MR. HEADLEY: Is that a fair statement,  
9 Mr. Miller?

10 MR. MILLER: That's fair. The question  
11 I'm going to ask is not do you have an expert but  
12 have you identified one. Which I think is a matter  
13 of public record in the cases, in answers to  
14 interrogatories.

15 MR. HEADLEY: Oh, you mean publicly in  
16 the court?

17 MR. MILLER: Right.

18 MR. HEADLEY: Oh. I thought you meant  
19 whether he in his own mind had identified one.

20 MR. MILLER: No. Maybe I didn't make  
21 myself clear enough.

22 BY MR. MILLER:

23 Q. That's going to be my question. I'm not  
24 going to ask you whether you've made up your mind

1 informally.

2 A. All right. We have not identified anyone in  
3 Aschlager from outside.

4 Q. I haven't asked you this but your in-house  
5 people are also very qualified. Is that right?

6 A. Yes.

7 Q. The ones you work with I understand do  
8 testify sometimes?

9 A. That's correct.

10 Q. As I go through, if you've identified  
11 someone in-house, I'd like their names as well too.  
12 Of course if you haven't, then we're under the same  
13 discussion.

14 You say you don't think you've examined  
15 the gun in the Aschlager case?

16 A. I can't remember if we have or have not. I  
17 don't know that much about the case and I can't  
18 remember anybody in-house that comes to mind in  
19 connection with that case.

20 Q. How about the Carter case?

21 A. The Carter case was one in Georgia. I did  
22 not handle that case; that was Bill Ericson's.

23 Q. Is it now closed?

24 A. It's closed, yes.

1 Q. Was that a Model 700 FSR complaint, to the  
2 best of your recollection?

3 A. To the best of my knowledge, that was the  
4 complaint, yes.

5 Q. Were you able to duplicate that condition in  
6 that rifle?

7 A. That I'm a little hazy on.

8 Q. Again, though, if there had been a report  
9 done on the rifle, it would be probably in your case  
10 file? This is a written report.

11 A. If our in-house people have done a report,  
12 it would probably be in the case file.

13 Q. How about the Covalt case?

14 A. Yes, Covalt case I remember.

15 Q. Where was that?

16 A. That was in Oklahoma, involved a 700. And  
17 there the allegations changed throughout the period  
18 of discovery. I guess it started out where the gun  
19 was on a washer and fell off the washer and  
20 discharged. Then as discovery went on, it was in  
21 the hand of one of the brothers who was going in to  
22 unload it, I believe, and the gun fired, shot his  
23 brother. The case was disposed of during discovery  
24 and that's as far as we went with it. I don't

1 remember any outside expert in that case.

2 Q. And I suppose you hadn't identified an  
3 in-house expert in that case?

4 A. I don't remember anyone being identified.

5 Q. How about the Hansen case?

6 A. Hansen case was a case down in Florida  
7 involving a person who was shot when he claimed he  
8 reached into his truck and lying on the truck muzzle  
9 facing him was a Model 700. He grabbed the muzzle,  
10 started to pull it toward him and his friend on the  
11 other side of the car grabbed the stock and started  
12 to pull it toward him and the gun discharged. That  
13 was the allegation.

14 Q. Was that gun analyzed by Remington?

15 A. Yes, to my understanding it was.

16 MR. HEADLEY: What's that? What was  
17 that question?

18 MR. MILLER: Was the gun analyzed by  
19 Remington.

20 MR. HEADLEY: Okay.

21 Q. Excuse me.

22 A. Yes, it was. The allegation, as I remember,  
23 was a jar-off situation.

24 Q. Did you test that gun for FSR, that you know

1 of?

2 A. I don't know the extent of the examination  
3 of that gun.

4 Q. How about the Hines case? Let me go back to  
5 the Hansen case. Were any experts identified?

6 A. I believe Robert Hillberg.

7 Q. How about the Hines case?

8 A. The Hines case is a pending case. I believe  
9 it's in Louisiana and it involves an allegation that  
10 a plaintiff ordered the gun custom made from a  
11 gunsmith in Michigan -- I believe it's Michigan --  
12 who used Remington components and, at his request,  
13 very light trigger pull. And he got it in his house  
14 and the gun discharged a bullet into a can of powder  
15 of some description and blew up his house and him.  
16 And that's my only recollection of it. No outside  
17 expert has been yet identified.

18 Q. Have you deposed the person who manufactured  
19 that rifle for him?

20 A. We have not.

21 Q. I'm sorry. Did you say, was there anything  
22 left of the gun to examine?

23 A. I believe there was but I'm not -- I'm not  
24 sure.

1 Q. You wouldn't know the results then either,  
2 of course?

3 A. I know -- Well, the results of the  
4 examination --

5 MR. HEADLEY: Whoa. Is this a pending  
6 case?

7 THE WITNESS: It's a pending case.

8 MR. MILLER: Oh, that's right. Good  
9 point. I won't go into that either. Strike the  
10 question. Watch me on that, too, because I might  
11 forget. These guys think I do it intentionally.  
12 Sometimes maybe I do, but that time I didn't.

13 BY MR. MILLER:

14 Q. The Lange case?

15 A. The Lange case went to trial and involved an  
16 allegation that a Model 700 was in the hands of a  
17 passenger in the front seat of a car who was leaning  
18 out the window to fire at a bird of some sort. In  
19 firing at the bird, he brought the gun back and put  
20 it on the raised part of the floor of the truck or  
21 car he was sitting in and started to move the bolt  
22 and the gun fired. It was a claim of jar-off.

23 Q. Did you examine the gun in that case?

24 A. Yes. That gun was examined.

1 Q. Were you able to make the gun jar off in a  
2 similar situation? This is a closed case. Right?

3 A. This is a closed case, yes. Yes, we found  
4 that the gun had been altered and the gun could jar  
5 off.

6 Q. What had been altered on the gun? The  
7 engagement?

8 A. I believe the fire-control screws had been  
9 altered, the engagement and trigger pull, and there  
10 -- I'm not sure if that's the only alteration, but  
11 there had been alteration.

12 Q. Do you know what the engagement was on that  
13 rifle?

14 A. No, I don't.

15 Q. Had you identified any experts -- ? Well,  
16 of course, you had in that case. You had to have  
17 someone to testify.

18 A. Yes.

19 Q. Who testified as an expert in your behalf,  
20 Remington's behalf?

21 A. I believe that was Bob Hillberg.

22 Q. Do you know who testified in-house?

23 A. John Linde.

24 Q. How about the Lopez case?

1 A. I believe that's Juan Lopez. That was one  
2 filed in Texas; it's closed. It was a case that the  
3 allegation was that in drawing a gun out of the gun  
4 case, the person in drawing the gun out moved the  
5 safety to the fire position and the gun discharged  
6 through the case and into a friend that was standing  
7 by a gate. The gun was examined and found that I  
8 believe it was the sear had been filed down which  
9 caused the condition in which the gun could fire  
10 without the trigger being pulled.

11 Q. The allegation there appears to have been,  
12 apart from the circumstances, a claim the rifle  
13 fired when the safety was released.

14 A. Yes, that was the claim.

15 Q. And in your testing it you were able to make  
16 it jar off due to the filing of the sear? Is that  
17 what you're saying or --

18 A. I don't know how our experts got it to fire  
19 but it was as the result of discovering that the  
20 sear had -- and I believe it was the sear -- the  
21 sear had been filed down and changed its  
22 configuration from the factory part.

23 Q. First, have you identified or did you  
24 identify any experts in the Lopez case?

1 A. The Lopez case did not go to trial. I  
2 believe Bob Hillberg was our outside expert in that  
3 case.

4 Q. How about the Morris, M-o-r-r-i-s, case?

5 A. The Morris case is a pending case.

6 Q. Please make your comments accordingly then.

7 A. It's a Texas case involving the allegation  
8 that the young boy went into a house with a loaded  
9 gun, Model 700, was in the house when he was --  
10 I believe he claims he was attempting to unload it  
11 when one of his friends came around the corner of  
12 the room and yelled boo and he spun around and the  
13 gun fired and shot and killed another boy in the  
14 house. I believe the boy's parents owned the house.

15 Q. Do the plaintiffs in that case allege that  
16 the rifle fired when the safety released or that he  
17 touched the trigger in turning around?

18 A. Well, I believe the allegations in that case  
19 have changed from the initial complaint. I believe  
20 they are alleging that the gun fired when the safety  
21 was released at this present time.

22 Q. How about the Muzyka case, M-u-z-y-k-a?

23 A. Yes, the Muzyka case --

24 Q. You smile at that one.

1 A. Well, we considered it closed up until about  
2 a week ago when the court of appeals ordered a new  
3 trial on it. So in a sense it's open.

4 Q. Is that the one filed down in Texas?

5 A. That was in Texas, in Waco. And the  
6 complaint was that a man was unloading several guns  
7 in a room and Mrs. Muzyka, I believe, was walking in  
8 front of the gun as he was attempting to unload them  
9 and somewhere in the process of unloading -- and I'm  
10 not sure exactly where it was. I think it was on  
11 his downstroke of his bolt but I'm not sure -- the  
12 gun discharged.

13 Q. Who were your experts in the trial of that  
14 case?

15 A. Bob Hillberg, I believe Ed Sienkiewicz, Jim  
16 Hutton. I believe those were the three.

17 Q. I didn't ask you that in the Morris case. I  
18 can't remember. I think you said that was open.  
19 But have you identified any experts in that case?

20 A. I don't believe so.

21 Q. How about the Nigro, N-i-g-r-o, case?

22 A. That's a case up in Pennsylvania, near  
23 Pittsburgh. I believe this was a hunting accident  
24 where the allegation is that in an attempt to unload

1 the 700, one of the hunting companions shot his  
2 companion.

3 Q. Is it alleged that that rifle fired on  
4 release of the safety in the unloading process?

5 A. I don't remember it that clearly, whether he  
6 claims the safety release fired the gun or whether  
7 the gun fired when he hit the trigger because the  
8 safe was off.

9 Q. Is that case open or closed?

10 A. That's open.

11 Q. Have you identified any experts of record to  
12 date?

13 A. I don't believe so.

14 Q. How about the Parker case?

15 A. The Parker case is familiar to me only  
16 because of the name. I have no recollection of that  
17 case. I believe it was in Texas but that's all I  
18 know of it.

19 Q. How about the Schierkolk case?

20 A. Schierkolk case is closed, went to trial,  
21 and it was in Denver, Colorado, and involved a case  
22 where this hunting party stopped, looked to see if  
23 there was a deer on the mountainside. A young boy  
24 looked, found that it was not, and began to unload

1 his gun and in the process of beginning to do that  
2 the gun fired and shot the leg of a young lady who  
3 was standing nearby.

4 Q. Do you know if the allegation in that case  
5 was that the rifle fired on release of safety in the  
6 unloading process?

7 A. I don't believe so. I believe -- As I say,  
8 it went to trial and I don't believe that issue was  
9 tried.

10 Q. First, who were the experts in this  
11 Schierkolk case?

12 A. Bob Hillberg, Jim Hutton. I think we had a  
13 local gunsmith whose name escapes me.

14 Q. How about the See case, S-e-e?

15 A. The See case was a case in Oregon involving  
16 a young woman who was shot in the leg as she walked  
17 in front of a man in the living room who was  
18 unloading guns.

19 Q. Was there an allegation in that case that  
20 the gun fired on release of the safety during the  
21 unloading process?

22 A. Yes, there was.

23 Q. Did you examine the See rifle?

24 A. I did not, but our experts looked at it.

- 1 Q. Were they able to duplicate that situation?
- 2 A. No.
- 3 Q. How about the Seyfurth case,  
4 S-e-y-f-u-r-t-h?
- 5 A. The Seyfurth case is a case pending in  
6 Illinois involving the allegation of a man who was  
7 attempting to unload his gun while it was half in  
8 the case and the gun fired and went into the body of  
9 an acquaintance that was coming up the path who  
10 subsequently died from lack of medical attention  
11 expeditiously.
- 12 Q. Was there an allegation of FSR in that case?
- 13 A. As I say, that's a pending case and it's  
14 sort of evolving. I'm not sure if there is one now  
15 or not.
- 16 Q. Okay. Have you identified anybody of record  
17 in that case to act as experts?
- 18 A. I believe Jim Hutton has looked at the gun.
- 19 Q. How about the Shutts case?
- 20 A. Shutts is a case up in Oswego, New York,  
21 involving a man who was injured very seriously when  
22 a gun discharged and put a bullet through both  
23 knees. The gun was being handled by a man who was  
24 attempting, claimed to be attempting to unload the

1 gun; took the safety off and was reaching for the  
2 bolt handle when the gun fired, according to his  
3 story.

4 Q. So is the allegation in that case that the  
5 gun didn't fire immediately upon taking the safety  
6 off? He was actually reaching for the bolt handle?

7 A. That's how the case went to the jury,  
8 through the trial. Whether there was an allegation  
9 somewhere along the line that the gun fired when the  
10 safety was released I'm not sure, because the  
11 plaintiff was -- I don't think the plaintiff would  
12 have made that. It might have been an allegation by  
13 defendants somewhere along the line, co-defendant,  
14 but....

15 Q. Now, your expert in that case was  
16 Mr. Hillberg at least. Right?

17 A. Bob Hillberg.

18 Q. Mr. Linde?

19 A. John Linde.

20 Q. Now, did you examine the rifle in that case  
21 before it was tried?

22 A. Our people did, yes.

23 Q. Do you know if they were able to make the  
24 rifle fire either in closing the bolt or releasing

1 the safety?

2 A. They were not.

3 Q. Now, how about the Slatter, S-l-a-t-t-e-r,  
4 case?

5 A. I recognize the name. I have no independent  
6 recollection of the facts.

7 Q. How about the Stark, S-t-a-r-k, case?

8 A. That was a case in Pennsylvania, Pittsburgh  
9 area, I believe, where a person who was not familiar  
10 with the gun was loaned the gun to go hunting. He  
11 was coming around for lunch and went to the truck  
12 and he started to -- slammed the bolt forward and  
13 the begun discharged just as, I believe, it was his  
14 brother came around the other side of the truck and  
15 the bullet hit him in the leg, in the knee. That  
16 was an allegation that the gun jarred off.

17 Q. Were you able to duplicate that complaint  
18 in-house?

19 A. Yes. We found that the gun had been altered  
20 and would jar off when you would bang the bolt  
21 around.

22 Q. What experts did you identify in that case?

23 A. I believe Colonel Crossman. I don't  
24 remember the in-house expert at that time.

1 Q. How about the Sussex case?

2 A. The Sussex case I recognize as a new case  
3 and I don't have that much familiarity with it.  
4 Bill Ericson has been handling most of that.

5 MR. HEADLEY: How do you spell that?

6 MR. MILLER: S-u-s-s-e-x, Sussex.

7 BY MR. MILLER:

8 Q. The Thomsen case, which is one we've  
9 discussed before filed out in California?

10 A. The Thomsen case is a case involving a game  
11 warden out in California who came upon a group of  
12 hunters either at dusk or just a little afterwards;  
13 and in asking to look in their truck to see if there  
14 was any loaded weapons, he asked the young boy who  
15 was sleeping in the truck whether the gun in the  
16 truck was loaded. There's a conflict of what the  
17 answer was. The game warden claimed that he reached  
18 in to remove the gun from the truck and asking  
19 Mr. Thomsen who was standing on the other side  
20 looking through the window to back away, grabbed the  
21 gun, pulled it toward him. The gun fired and just  
22 at that time Mr. Thomsen looked back and was shot in  
23 the head and killed.

24 Q. Mr. Thomsen is the one that was killed in

1 that case. Correct?

2 A. Right.

3 Q. How did the game warden -- ? Was his  
4 instruction to Mr. Thomsen move back so Mr. Thomsen  
5 would be out of the way --

6 A. Move away from the window of the car door.

7 Q. Was he reaching in from one side to get the  
8 gun and the gun was pointing in the other direction?

9 A. He was reaching in from the passenger side  
10 and it was dark and he grabbed it by the stock or up  
11 toward the top of the stock, pulled forward. The  
12 gun discharged and as it did or just before it did,  
13 Mr. Thomsen looked back and was hit in the head.

14 Q. Your experts in that case, if you have  
15 identified any, were who?

16 A. I believe Bob Hillberg, Bill Davis. I  
17 believe Jim Hutton, Jim Stekl.

18 Q. The whole contingent on that one, huh?

19 How about the Toltzman,  
20 T-o-l-t-z-m-a-n, case?

21 A. That's a case I recognize by the name but I  
22 don't remember it.

23 Q. How about the Van Allen case?

24 A. The Van Allen case? I have to backtrack.

1 If you will remember what I told you about the  
2 Hansen case, that was the Van Allen case.

3 Q. Okay.

4 MR. HEADLEY: I don't know how you can  
5 remember all this anyway, but....

6 A. That was the Van Allen case. Let me go to  
7 the Hansen case, because the experts were the same.

8 Q. Go right ahead.

9 A. I just got my names --

10 Q. That's all right.

11 A. They're both Florida cases. Hansen was a  
12 case where two college friends went hunting and  
13 Mr. Hansen loaned his friend a model -- his Model  
14 700 to hunt. They came back to the truck ready to  
15 come home. The friend was having trouble unloading  
16 the gun. He was trying to raise the bolt; it  
17 wouldn't raise. And Mr. Hansen came forward toward  
18 him and said either "Let me try it" or "This is the  
19 way you do it" or something and as he was reaching  
20 toward Mr. Co-Defendant, the shooter, the gun  
21 discharged and went into the leg of Mr. Hansen.

22 Q. Was that a claim of FSR because he had  
23 finally figured out to push the safety off or was it  
24 a claim of jar-off?

1 A. It really was a claim of -- The claim was  
2 improper gun design in that the safety had to be  
3 moved to the fire position to start the unloading  
4 process.

5 Q. Who were the experts in that case?

6 A. Bob Hillberg, Ed Sienkiewicz, Mike Walker.

7 Q. Is that the only case that Mr. Walker has  
8 been identified as an expert in, to the best of your  
9 knowledge?

10 A. It's the only case to the best of my  
11 knowledge that he testified live. A film of  
12 Mr. Walker was introduced into evidence in the  
13 Schierkolk case.

14 Q. Now, in all these cases, the fifteen,  
15 eighteen, nineteen, whatever that list is I've gone  
16 through with you numbers, have you ever been able to  
17 duplicate a customer's complaint that the rifle  
18 would fire on release of the safety, if that was the  
19 allegation made in the case?

20 MR. HEADLEY: In all those cases he  
21 just went through?

22 MR. MILLER: Right.

23 MR. HEADLEY: Well, I thought you  
24 covered that as you went through.

1 MR. MILLER: I may have missed one or  
2 two and I'm just covering it up now.

3 MR. HEADLEY: Well, all right now, if  
4 you can recall which ones you -- All right. Go  
5 ahead, Mr. Sperling.

6 BY MR. MILLER:

7 Q. Just generally have you ever been able --

8 A. I believe we duplicated in the Lopez case,  
9 the case where we found it had been filed, one of  
10 the components had been filed. I'm not sure about  
11 the Carter case. Wasn't involved in that to that  
12 extent.

13 Q. And of course the ones I've already asked  
14 you about specifically, you don't need to worry  
15 about those because I have your answer. But I'm  
16 just trying to think if there's --

17 A. If there's anything, yeah.... The other one  
18 we duplicated were Stark and Lange, which were jar-  
19 off cases and didn't have to do with the safety.

20 Q. And you duplicated the jar-off, not the FSR?

21 A. We duplicated the jar-off, yes.

22 Q. Now, have you ever seen a Model 700 bolt-  
23 action rifle fire on release of the safety that has  
24 not been modified or adjusted by a customer?

- 1 A. Are you asking me if I've ever seen it?
- 2 Q. Right.
- 3 A. No, I've never seen it.
- 4 Q. Have you ever heard of it occurring such as
- 5 in a factory-produced gun that hasn't been sold to
- 6 the public yet?
- 7 A. Would you repeat the question?
- 8 Q. Sure.
- 9 Have you ever heard of it occurring, of
- 10 FSR in a Model 700?
- 11 A. Oh, have I ever heard of a Model 700 firing
- 12 when the safe was released?
- 13 Q. Right; that is still in what I call factory
- 14 condition. In other words, you don't blame the
- 15 firing on an adjustment of the trigger mechanism by
- 16 someone.
- 17 A. I don't believe so.
- 18 Q. Now, in those cases where there has been an
- 19 FSR in the Model 700 whether it has been adjusted or
- 20 not, irregardless of the cause, is that FSR a
- 21 constant condition or is it intermittent?
- 22 A. I don't know.
- 23 Q. Let's take the Lopez case you mentioned
- 24 which was a filing down of the sear. Did the FSR

1 happen in that case every time the rifle was run  
2 through an FSR test or did it just happen some of  
3 the time?

4 A. I don't know.

5 Q. Have you seen any gallery test data run by  
6 the production department on rifles produced and  
7 tested for FSR that shows that they will FSR?

8 A. The only data I've seen is in connection  
9 with depositions that were taken there.

10 Q. I hand you what has been marked as  
11 Plaintiff's Exhibit MMMM and ask you if you've seen  
12 that document before.

13 MR. HEADLEY: Is that M as in Mike?

14 MR. MILLER: M as in Mike, yes.

15 A. Yes.

16 Q. First, for the record --

17 MR. HEADLEY: Is this something we've  
18 seen before?

19 MR. MILLER: Yes. I showed that to you  
20 earlier today, I believe. Go ahead and take a look  
21 at it again if you want to.

22 MR. HEADLEY: Oh, that's the Chisnall  
23 memo to Sperling?

24 MR. MILLER: Right.

1 MR. HEADLEY: All right. I've seen  
2 it. Go ahead.

3 BY MR. MILLER:

4 Q. Tell me what it is for the purposes of the  
5 record first, including dates, names, things like  
6 that.

7 A. This is a memorandum written from Jack  
8 Chisnall to me addressing a question that I referred  
9 to him asking whether we've ever had a customer  
10 complaint or suit alleging that a Model 700  
11 discharged when a live round was chambered. And in  
12 reply he's giving me several names and addresses and  
13 a brief description of the claim and he's listed  
14 these on ten pages, an attachment.

15 Q. Now, did you talk this over with him after  
16 he submitted it to you?

17 A. I don't believe so.

18 Q. Do you know where he got his data from? You  
19 say litigation and other claims. Do you know where  
20 these names came from, in other words?

21 A. Well, he had -- There's a complaint file  
22 that's kept by product service. He was at that time  
23 a supervisor of product service.

24 Q. Are these the gun examination reports? Is

1 that the complaint file you're referring to or is it  
2 a separate complaint file that product service keeps  
3 on guns it examines independent of the gun  
4 examination committee?

5 A. No. I believe these are letters that are  
6 sent in by customers complaining of certain things.  
7 He had these letters on file if the complaint was  
8 still in a sense going on and he would go through  
9 that file and pull these names depending upon what  
10 was written in their letter.

11 Q. Where would he get the information to write  
12 down the short explanation? Was that from any study  
13 done by the customer service people or what?

14 A. No, that's what the writer would have told  
15 us. He got it from the letter that was written in.

16 Q. So this file is just composed of letters  
17 containing FSR complaints?

18 A. No. It was a file of complaints that came  
19 in in chronological order, apparently, or perhaps  
20 alphabetical he would keep. He would have to go  
21 through the file and pull out those complaint  
22 letters that reference what I'd asked him, that  
23 topic.

24 Q. But what I'm trying to get at, is that all

1 that's in the file or are there any reports in the  
2 file as a result of any examinations of those  
3 rifles?

4 A. I don't know what -- The file would be one  
5 of continuing. It would be the letter, first the  
6 complaint; then if he wrote to him asking to have  
7 the gun sent back. Then if there was a gun  
8 examination report, he would send either a summary  
9 of that to the plaintiff, to the complainant, and  
10 then have a copy in his file and then the file would  
11 -- as I remember at this time, we had a three-year  
12 retention schedule. At the end of, the last date in  
13 that file, the last piece of document, it would be  
14 kept for three years after that date.

15 So he went through his file, pulled all  
16 of those letters or all of those files that would  
17 have complied with my request and listed them.

18 Q. Now, what position is Mr. Stekl in now? Is  
19 he in Mr. Chisnall's position?

20 A. Mr. Stekl is supervisor of product service  
21 at Ilion. That was the title that Jack Chisnall  
22 had. But just before Jack retired he became manager  
23 of product service, which is what Ed Sienkiewicz is  
24 now. Ed Sienkiewicz is more comparable to Jack

1 Chisnall in management.

2 Q. I note a lot of letters responding to  
3 customer complaints dating beyond 1980 which is the  
4 date of this memo from Mr. Stekl and Mr. Sienkiewicz  
5 that have been produced --

6 A. Beyond being later?

7 Q. Later, yes. -- which have been produced to  
8 me. What I'm wondering, would this be a compilation  
9 of those files that might have existed prior to  
10 1980, at least a summary of those files?

11 A. I would think so, yes.

12 Q. So even though the files may have been  
13 destroyed due to the record retention policy, at  
14 least these names are --

15 A. This list, he would have gotten those from  
16 that file, yes.

17 Q. Now, what is the document retention policy  
18 that you know of at Remington with respect to  
19 various types of documents? Can you categorize it  
20 for me?

21 A. Well, each document that is generated or  
22 received by the company is classified as, it's  
23 either a report, a letter from each department.  
24 Finance has about 116 -- I mean, I'm just throwing

1 that out as a reference -- different documents.  
2 Legal classifies their documents. There's a whole  
3 book of various retention schedules for each type of  
4 document.

5 In this case, letters of complaint, the  
6 retention schedule is three years from the date of  
7 the last document in the file.

8 Q. Now, when is this imposed? Or when was this  
9 imposed in Remington or started?

10 A. Oh, I think we've always had a record  
11 retention schedule. At least, we did when I came  
12 with the company in 1970. The periods might have  
13 changed. I think in the late '70s, perhaps the  
14 middle '70s, the complaints were three years.

15 Q. When Remington was acquired by DuPont, full  
16 hundred percent ownership, was DuPont's document  
17 retention policy imposed upon Remington?

18 A. Well, I wouldn't say imposed upon. We did  
19 look at their schedule and conform to it.

20 Q. And that's what you operate under now. Is  
21 that correct?

22 A. Yes, yes.

23 Q. We'll talk about that when he gets done. We  
24 might as well take a look at this one, this being

1 Plaintiff's LLLL.

2 MR. MILLER: This is the other list I  
3 showed you earlier. Do you want to look at this  
4 one?

5 MR. HEADLEY: No. You go ahead.

6 BY MR. MILLER:

7 Q. Going to hand you what has been marked as  
8 Plaintiff's LLLL exhibit. Have you seen this  
9 document before or any of the attached pages?

10 A. (Pause) I don't remember seeing this. I  
11 may have. I don't -- There's nothing that jogs my  
12 memory. I don't see who it was to or....

13 Q. Are there any identifying marks on, say, the  
14 first page or the last page or any part of it that  
15 would --

16 A. Well, it appears to be a list.

17 Q. The title is what?

18 A. The title is -- Well, the first page, the  
19 following are complaints that have been received on  
20 accidental firing for the Model 700, and there's  
21 several pages of names of those complaints. And  
22 then the topic changes to be accidental firings of  
23 the Model 600 and 660 and several names of those  
24 complaints. But I don't have any memory of ever

1 seeing it or knowing what this is.

2 Q. You wouldn't know who did it or why it was  
3 done or anything like that, would you?

4 A. I would just be surmising.

5 Q. With respect to the other exhibit which I  
6 think John has, the one I showed you before, MMMM,  
7 what was the reason for the preparation of that  
8 exhibit? Was it to answer interrogatories or was it  
9 some other reason?

10 A. I have no independent recollection of it.  
11 In looking at it, looking at the top page, it seems  
12 to me that it was -- What I did was to ask Jack a  
13 question that was taken, the words were taken right  
14 from the request for production. That was my usual  
15 way of dealing with Jack in saying, you know, what  
16 type of complaints I want. I usually took the words  
17 right out of the production of documents.

18 Q. And let him figure it out, huh?

19 A. Let him give me what he got from it.

20 Q. I do that when I want people to answer  
21 interrogatories too that I represent. I just send  
22 it to them and say "You figure it out and I'll see  
23 what you come up with."

24 Do you have any reason to doubt any of

1 the entries on this Plaintiff's Exhibit MMMM that  
2 Mr. Chisnall made for you? If you want to read all  
3 of it, fine. It's up to you.

4 A. Well, it's such a broad question, any 700  
5 that discharged with a live round in the chamber. I  
6 suppose --

7 Q. I'm not saying whether it occurred. I'm  
8 saying whether or not it correctly records all those  
9 allegations.

10 A. Oh. I have no reason to doubt it.

11 Q. That's going to be my next question. Did  
12 you do any independent verification of any of those  
13 claims as a result of his memo?

14 A. I don't remember doing anything  
15 independently.

16 Q. And on this it's a little more abstruse  
17 question, but -- I don't think I even need an  
18 answer. Strike the question.

19 Have you ever done any other summaries,  
20 say, post-dating this April 3, 1980 summary of  
21 allegations of FSR complaints in Model 700 bolt-  
22 action rifles?

23 A. I may have -- I haven't done it. I would  
24 have asked product service to do it, because they

1 handle the complaints as opposed to litigation. I  
2 may have asked for that list to be compiled in  
3 answer to some interrogatory in other cases. I'm  
4 sure I did.

5 Q. You don't remember a particular instance,  
6 though, is what you're telling me?

7 A. Well, it may have been this case. It may be  
8 Thomsen.

9 Q. No, I haven't asked that question in this  
10 case.

11 A. Well, I'm sure I did since 1980. I'm sure  
12 Shutts was one.

13 Q. I'm going to hand you what has been marked  
14 as -- Let me go back to my list here and finish it  
15 before I forget. I'm sorry. We were going through  
16 a list of documents. You of course have seen  
17 product safety subcommittee minutes. Have you seen  
18 operations committee minutes?

19 A. I believe so.

20 Q. What is your understanding of the authority  
21 Remington designers have with respect to  
22 modifications in rifles or other products  
23 independent of the operations committee? In other  
24 words, when do they have to get the operations

1 committee approval to make a change in a product?

2 A. I don't know.

3 Q. Would the demarcation be between safety-  
4 related improvements and nonsafety-related  
5 improvements or would that be speculation on your  
6 part?

7 A. I'd be guessing. I really don't know.

8 Q. Have you ever seen armed services usage  
9 reports or arm services usage reports?

10 A. The title doesn't mean anything to me.

11 Q. How about the design change request forms  
12 and blueprints which tell the designers about how  
13 the Model 700 is built and designed?

14 A. Would you -- ?

15 Q. Design change request forms and blueprints  
16 or drawings which are the pictorial --

17 A. I know what DCRs are.

18 Q. Okay. Have you ever done --

19 A. But I don't remember that being attached to  
20 a blueprint.

21 Q. Have you ever done an in-depth study of DCRs  
22 to respond to an interrogatory in a particular area,  
23 for instance?

24 A. I believe we have compiled DCRs in a number

1 of cases. I wouldn't -- I would just pass on the  
2 interrogatory question and have the designers tell  
3 me what was applicable.

4 Q. That's for a request for production, for  
5 instance, when you have been asked to produce DCRs  
6 in a certain area?

7 A. Right.

8 Q. How about in response to answering a  
9 particular question about the gun? For instance,  
10 was there ever a change made to the -- this is just  
11 an example -- ever a change made to the trigger  
12 connector and, if so, why? Have you ever sat down  
13 with the designers, looked at the DCRs that are  
14 applicable and drafted an answer to one of those  
15 type questions based on DCRs?

16 A. No, I've never done that.

17 Q. Would that be done by the design section,  
18 then reviewed by you if it had been, if you haven't  
19 done it yourself?

20 A. Well, it would have -- If it was an answer  
21 to some request, it would have been done by either  
22 Jim Hutton or someone I would have assigned that to.  
23 He would have gotten the DCRs, compiled them and  
24 either sent them to me to forward on to the

1 attorneys or.... But I've never sat down with him  
2 and gone over and have him explain what the DCR is.

3 Q. What is Jim Hutton's title or position?

4 A. I don't know his exact title.

5 MR. HEADLEY: Who? What was that?

6 MR. MILLER: Jim Hutton.

7 BY MR. MILLER:

8 Q. Have you ever written, reviewed, edited or  
9 commented on owner's manuals which are packaged with  
10 a bolt-action rifle when it's sold?

11 A. I've assisted in the writing of some  
12 manuals. Not from the standpoint of instructing  
13 anyone how to use the gun necessarily but just small  
14 input on what should be included, some warnings,  
15 that kind of thing.

16 Q. There was a change made in the Model 700  
17 bolt-action rifle in 1973, at least the manual of  
18 that rifle, in which the prior manual -- I'm not  
19 telling you I'm quoting verbatim here. If you want  
20 to see those, I might have them around here  
21 somewhere. But the change, as I understand it, was  
22 prior to that time there were instructions as to how  
23 to adjust certain screws in the gun, the trigger  
24 overtravel and the trigger pull but not the trigger

1 engagement screw. Since that time or as a result of  
2 the change, there was a basic instruction or warning  
3 in there not to adjust those screws and, rather,  
4 send it in to the factory or consult a Remington-  
5 approved gunsmith. Were you involved in that change  
6 in any way?

7 A. I remember when the change went in and I  
8 approved it, but I don't remember inputting any  
9 particular language.

10 Q. Do you remember discussing that change with  
11 anyone, for instance Mr. Kelly or Mr. Alvis or  
12 Mr. Walker or Morgan or anybody like that?

13 A. No.

14 Q. I'm going to hand you what's been marked as  
15 Plaintiff's Exhibit NNNN, ask you if you've seen  
16 that document before.

17 A. Yes, I have.

18 Q. Does that jog your memory or refresh your  
19 recollection as far as any discussions with any of  
20 those individuals concerning that change?

21 A. No. I never discussed it with any of these  
22 individuals. I only recognize it because it was an  
23 exhibit in a trial.

24 Q. Do you know if there was a particular cause

1 or reason that Mr. Walker had for requesting this  
2 change, quote, "No trigger adjustments are  
3 recommended"?

4 A. I don't know firsthand. As I say, I was at  
5 the trial when this was reviewed and explained by  
6 Mr. Linde. So I would just be parroting what he was  
7 saying.

8 Q. You can do that here; you can't do it at  
9 trial. But I'm entitled to that information,  
10 whatever you remember from that explanation, with  
11 the understanding that it is secondhand or third-  
12 hand or whatever.

13 A. Well, he had an explanation of -- He went  
14 through the letter sentence by sentence and I  
15 remember the questioning and I don't remember his  
16 answers --

17 Q. This here?

18 A. That exhibit. And I don't remember his  
19 answers to everything. I remember that one of the  
20 things he was saying was that we were getting back,  
21 we being Remington, were getting back guns that were  
22 altered that showed that the customers were not  
23 understanding the purpose of the alteration. A lot  
24 of the engagement screws were being changed when it

1 was obvious from the letter that they wanted to  
2 adjust the trigger pull. And apparently it was  
3 decided that no amount of instruction was going to  
4 clear up that situation so they decided to make it  
5 clear in the manual that the customers were not  
6 supposed to adjust it.

7 Q. Did Mr. Linde, why would he know that  
8 information? Did he work with Mr. Walker at the  
9 time?

10 A. He did work with Mr. Walker. I'm not sure  
11 if that's why he knew the information. He did --  
12 He was in the research department with Mr. Walker at  
13 that time.

14 Q. Do you know if Remington ever advertised  
15 their Model 700 rifle as a fully adjustable rifle in  
16 terms of the trigger-adjusting screws?

17 A. I'm not sure I -- I'm not sure what the  
18 advertisement said. I know the manual did have a  
19 section about adjusting the trigger pull and I  
20 remember at one time it was don't go below three  
21 pounds. But I don't know what the advertisements  
22 said.

23 Q. Now, this memo says "It is understood that  
24 the need arises as a result of significant increase

1 in customer complaints of problems growing out of  
2 attempts to adjust trigger by shooters. The  
3 designers believe this condition arises as a result  
4 of differences in parts as compared to earlier  
5 production with the sear being a contributor." Do  
6 you remember Mr. Linde's testimony with respect to  
7 that second sentence, the difference in parts as  
8 compared to earlier production?

9 A. No.

10 Q. Do you know if you ever discussed at that  
11 point in that trial a problem with the clearance  
12 between the sear and the trigger connector when the  
13 safety is engaged?

14 A. That doesn't seem familiar.

15 Q. Now I'm going to hand you what's been marked  
16 as Plaintiff's Exhibit 0000, which I know you have  
17 some familiarity with because you signed that one.

18 A. Pretty good assumption.

19 Q. I asked Mr. Hennings that question the other  
20 day, one that he signed, and it was wrong even  
21 though I did make that assumption.

22 MR. SHAW: Did we see that? Is that a  
23 new one?

24 MR. MILLER: No, these are all, you've

1 seen them before, John.

2 BY MR. MILLER:

3 Q. Just for purposes of the record, are you  
4 familiar with that exhibit? You have seen it  
5 before?

6 A. Yes, I have.

7 Q. And that is a memo from you to --

8 A. Mr. Hart, F. Hart. Can't remember his first  
9 name. Hart, H-a-r-t.

10 Q. What was the reason for that change?

11 A. It was an addition to the manual where we  
12 expanded the instruction how to unload to include --  
13 as I remember, the inclusion was once you move the  
14 safety to the off position to raise the bolt handle,  
15 you can move the safety to the on position and  
16 continue on with the unloading process.

17 Q. What is the date of that memo?

18 A. May 6, 1974.

19 Q. That was before the removal of the bolt lock  
20 on the Model 700 bolt-action rifle. Correct?

21 A. Yes.

22 Q. Was that an attempt to permit the user in  
23 unloading the rifle to unload it in a safe condition  
24 all except the initial chambered round?

1 A. Well, it was an attempt to call to the  
2 shooter's attention the feature on our Model 700  
3 that allows you to put the safe back on once the  
4 bolt is raised.

5 Q. Did that permit the shooter to unload all  
6 but the initial chambered round in the safety mode?

7 A. With the safe on you could do whatever you  
8 wanted to with the gun.

9 MR. HEADLEY: Whoa, whoa! Wait a  
10 minute. Read that question back.

11 MR. MILLER: If you would, please.

12 (The reporter read the question and the  
13 answer.)

14 MR. HEADLEY: When you said safety  
15 mode, you mean with the safe-on safe?

16 MR. MILLER: Yes.

17 MR. HEADLEY: Go ahead.

18 A. Once you raise the bolt, you could put the  
19 safety on. And you can unload the one in the  
20 chamber; you could --

21 Q. I understand what you're saying.

22 A. You could -- what do you call it? -- factor  
23 them up through the magazine.

24 Q. Cycle?

1 A. Cycle them up. And close the bolt down  
2 again with the safety on.

3 Q. Even with this change in the owner's manual,  
4 to begin the unloading process in the Model 700, you  
5 first had to take it off safe. Correct?

6 A. Yes. Just one correction. The --

7 MR. HEADLEY: Well, go ahead.

8 A. It wasn't -- There wasn't any change in the  
9 design or manufacture of the gun. It was an  
10 expansion of the instruction. The gun could always  
11 do this. You could always from the inception of the  
12 design in 1962 raise the bolt and put the safety on.

13 MR. HEADLEY: Well, I'm going to now  
14 object to the form of the question which said that  
15 with this change you would first have to raise the  
16 bolt before you could put the safety in the safe  
17 position. This change doesn't say that's what you  
18 do first, that the witness has in front of him, I  
19 assume. It says first you hold the rifle with the  
20 muzzle pointed in a safe direction; then you go to  
21 that operation. And in that sense, if it was  
22 misleading, I want to object to that form because  
23 it's contrary to this instruction that is  
24 Plaintiff's Exhibit 0000.

1 BY MR. MILLER:

2 Q. Let me change my question around. Prior to  
3 removal of the bolt lock in about 1982, regardless  
4 of whether this instruction was in the manual or  
5 not, one of the steps you had to utilize before  
6 unloading the rifle is to take the safety off and  
7 put it in the fire position. Correct?

8 A. That was a requisite to raise the bolt.

9 Q. And you have to raise the bolt to unload  
10 it. Correct?

11 A. To take it out of the chamber, take the  
12 cartridge out of the chamber.

13 Q. Do you know, did you ever do a study on how  
14 well the customers followed this instruction  
15 contained on Plaintiff's Exhibit 0000 after it was  
16 included in the manual?.

17 A. Not to my knowledge.

18 Q. Is it something that you think a normal  
19 consumer or owner of the Model 700 bolt-action rifle  
20 would follow in the usual unloading of his rifle?

21 A. Not being a hunter, I don't know what part  
22 of the instructions they deem as necessary. It's  
23 hard for me to evaluate on that basis.

24 Q. I get the idea from talking with you on this

1 that this might not have been your idea but at least  
2 you're the one that issued the change. Am I correct  
3 in my assumptions there? Did you come up with this  
4 unloading process yourself, in other words?

5 A. No. It was -- That's what I'm trying to  
6 get across. The gun always had that capability.  
7 And it was to improve the instruction of the  
8 warning, to get in all the features that the gun  
9 could encompass, to put that in. Now, where I  
10 learned about it, frankly, I don't know. But I  
11 didn't make the discovery myself.

12 Q. In other words, it was someone else's idea  
13 to include this but you don't remember that person's  
14 name. Is that what you're saying?

15 A. Well, I'm not sure if -- What I'm saying  
16 is, I didn't discover this could happen with the  
17 gun. Once I learned about it, and we were in the  
18 process of updating our manuals as we do  
19 periodically, I suggested that that be included.

20 Q. Do you know if the insert entitled Alternate  
21 Unloading Procedures that's referred to in the  
22 bottom paragraph was ever produced and enclosed in  
23 rifle boxes sold to the public?

24 A. I don't remember now.

1 Q. Do you remember an insert being prepared?  
2 You know, do you visualize something in your mind  
3 that is such an insert that was actually published?

4 A. I really don't have a memory.

5 Q. Okay. Next I'm going to hand you  
6 Plaintiff's Exhibit 000 and ask you if you've seen  
7 this document before. I'll represent to you that it  
8 is a letter to Remington recommended gunsmiths dated  
9 June 20, 1979.

10 A. Yes, I've seen this before.

11 Q. What was the reason behind that letter? Why  
12 was it sent?

13 A. Well, the reason behind it was -- I'm just  
14 getting the reason from what I'm reading. I have no  
15 independent knowledge of why.

16 Q. All right. Then I don't need to ask you  
17 that question, if that's your memory.

18 Did you discuss this with Mr. St. John  
19 before he sent it out, this letter?

20 A. I don't remember discussing it with him.

21 Q. Is this the type of authority that  
22 Mr. St. John would have without passing it before a  
23 superior or perhaps the product safety committee or  
24 the operations committee?

1 A. No. I believe this was approved by Earl  
2 Larson.

3 Q. Who was Earl Larson at the time?

4 A. Well, Earl Larson was manager of product  
5 service before he retired.

6 Q. Now, do you remember discussing this memo  
7 with him?

8 A. I really don't remember it. I'm getting all  
9 my information from --

10 Q. Okay.

11 A. I should finish my answer. It was sort of  
12 hanging there.

13 Q. I'm sorry. I interrupted you.

14 A. I'm getting my information from what I've  
15 learned in compiling answers to interrogatories  
16 and --

17 Q. Tell me whatever information you've gotten  
18 from whatever other source. I'll be glad to hear  
19 it.

20 A. Well, I just know that Earl Larson was the  
21 one who generated this letter and I can't remember  
22 talking to him about it before he did it.

23 Q. How about page 2 in that letter and the  
24 policy represented in the first two sections that

1 the fire-control system or the internal components  
2 of the fire-control system are not for sale to  
3 gunsmiths and that instead the rifle should be  
4 returned to the factory for repair in those areas?  
5 Was that part of Mr. Larson's position too or did  
6 these two pieces of paper just somehow get attached?

7 A. I can't say if this went out with the  
8 letter. I don't have any independent recollection  
9 of it.

10 Q. Do you know the reason for the policy as  
11 stated there for Model 600s and 700s to not sell the  
12 fire-control systems or its parts?

13 A. I believe it was to ensure that the trigger  
14 assembly would be assembled correctly and that the  
15 people out in the field could not alter it to  
16 construct their own trigger assembly through parts  
17 and ordering it from the company.

18 Q. Let me hand you what has been marked as  
19 Plaintiff's Exhibit RRRR and ask you if you've seen  
20 that before.

21 A. Yes.

22 Q. Were you involved in the preparation of that  
23 document?

24 A. Yes, I was.

1 Q. Is that the original or is that a revision  
2 of a prior product recall procedure? There's a date  
3 in the lower left-hand corner which might be  
4 helpful.

5 A. I see the date is '75. I believe that's  
6 when I wrote it. Your question is did I revise one  
7 before that?

8 Q. Yes. Mr. Partnoy said he didn't know if  
9 that was the original product recall procedure that  
10 was in written form at Remington or if there was a  
11 previous one that that might have been an update to  
12 or addition or modification of.

13 A. I really can't recall either. I know that I  
14 looked at the federal model in drafting it and I  
15 don't remember -- I don't remember if there was  
16 another recall procedure extant, in existence at  
17 that time in writing or not.

18 Q. Who asked you to prepare this recall  
19 procedure?

20 A. I believe it was Mr. Partnoy.

21 Q. Was it prepared in relation to a pending  
22 claim or a case such as the Model 600 Coates case or  
23 was it done prior to that time?

24 A. No, this was done in 1975. I don't remember

1 any particular case that it would have been done.  
2 It was just the fact that we -- I think the impetus  
3 for it was the Consumer Products Safety Act, the  
4 federal act. We wanted to be sure we were in step  
5 with that, because not only do we manufacture  
6 firearms and ammunition but we do make some abrasive  
7 products that would be included under that act. And  
8 we wanted to be sure that we had a fairly uniform  
9 policy for all products even though the firearms and  
10 ammunition do not fall under the federal Consumer  
11 Product Safety Act.

12 Q. What do you know of the Coates case? Are  
13 you familiar with that one?

14 A. Yes.

15 Q. Were you involved in that case in a similar  
16 capacity as you were in these Model 700 cases?

17 A. Yes.

18 Q. In that case, what was the -- ? Was it  
19 another allegation of FSR, firing on release of  
20 safety?

21 A. That definitely was the informal  
22 allegation. I don't know if that was in the  
23 original complaint.

24 Q. That was at least made by the plaintiffs at

1 one time, that allegation?

2 A. At one time toward the -- after many months,  
3 after the complaint, that was the evolving of the  
4 allegation.

5 Q. Was Remington able to duplicate that  
6 complaint in the Coates rifle, that the rifle fired  
7 on release of safety?

8 A. It was able to manipulate the firing of the  
9 gun by manipulating the trigger and the safety  
10 lever.

11 Q. Did Remington blame -- ? I assume your  
12 answer was yes, then, they were able to duplicate it  
13 given that manipulation?

14 A. We were able to get the gun to fire given  
15 that --

16 Q. To fire when the safety was released by  
17 performing what was called or is now called the  
18 trick test. Is that right?

19 A. The trick test, right.

20 Q. So we understand each other, the trick test  
21 is you lock the bolt or put the bolt down, put the  
22 safety in the on position or with the safety in the  
23 on position, then put the safety in the halfway  
24 position, intermediate or null position, pull the

1 trigger, release the trigger, then push the safety  
2 off. If the rifle fires, it's failed the trick  
3 test. If it doesn't fire, it's passed the trick  
4 test. Is that right?

5 A. That's right.

6 Just to clarify it, there is no  
7 official null position; you've got to find it  
8 between off and safe.

9 Q. Is it a position that that safety could be  
10 made to hang up in independent of any outside force?  
11 For instance, you wouldn't have to hold it there is  
12 what I'm saying.

13 A. In certain guns.

14 Q. In other guns you might have to hold it is  
15 what you're saying?

16 A. Apparently, yes.

17 Q. Do you know if there is an FSR -- excuse me  
18 -- a trick position or null or intermediate position  
19 on the Model 700?

20 A. Well, there's what we call a null position  
21 on any two-position safety gun and there's one -- I  
22 suppose there's a null position on a three-position  
23 safety gun too. It's just the midway point between  
24 off and on but there's no official designation as

1 such.

2 Q. Why were you so concerned with this null  
3 position -- ? I may be mischaracterizing things  
4 here. But why were you concerned with the null  
5 position enough to issue a recall on the Model 600  
6 when that null position or intermediate position is  
7 present in all two-position safeties?

8 A. Well, we weren't concerned with the null  
9 position as such because there's always a  
10 midposition on the safety. What we were concerned  
11 about on the 600 was that in certain rifles in that  
12 model, if you found a position between safe and  
13 fire, or off, pulled the trigger with that safety  
14 lever in the midposition, the safety lever being in  
15 the midposition, the sear would be lower than it  
16 would be if it was on full safe and when you pulled  
17 the trigger, the top of the trigger would go in  
18 front of the sear and not be able to retract back  
19 under the sear because it was lower than it should  
20 have been. It was that condition that we found in  
21 the Coates gun.

22 Q. Because with the safety in the intermediate  
23 position or the null position you don't have total  
24 lift of the sear by the safety cam. Is that

1 correct?

2 A. That's right. Well, you don't -- It's not  
3 that you don't have total lift but you don't have  
4 sufficient lift.

5 Q. So in the Model 600, at least on some  
6 rifles, if there was insufficient lift of the sear  
7 in relationship to the potential movement of the  
8 trigger connector, then it is possible to have a  
9 trick condition or a firing on release of the  
10 safety. Is that right?

11 A. Yes. You can trap the trigger by pulling it  
12 if you don't have the sear high enough so that the  
13 trigger can get back underneath.

14 Q. Could that condition also exist in the Model  
15 700 rifle? In other words, the sear is not lifted  
16 high enough to allow the trigger connector to return  
17 back underneath it if the trigger is pulled when the  
18 rifle is on safe?

19 MR. SHAW: Mr. Miller, just a point of  
20 clarification. I think you have been through with  
21 this witness and have established that he's not in  
22 the design field. If you want to talk to  
23 Mr. Sperling about what his understandings are or  
24 whatever, with that limitation, I guess there's

1 nothing we can do to prevent that. But....

2 MR. MILLER: Yes, if you don't mind.

3 And then I'm going to ask him the question another  
4 way which might void your objection, but I wanted to  
5 start this way because it might cut things short.  
6 And I understand.

7 MR. SHAW: And the witness is fully  
8 aware of whatever limitations and if he doesn't feel  
9 comfortable to answer --

10 MR. MILLER: I understand your  
11 objection.

12 MR. SHAW: -- he understands that.

13 MR. MILLER: Do you remember the  
14 question? Would you like -- ?

15 THE WITNESS: You better read it back  
16 to me.

17 BY MR. MILLER:

18 Q. I'll just repeat it. I don't like the way I  
19 phrased it anyway.

20 You explained the FSR condition to me  
21 in the 600. Not the FSR, the trick condition in the  
22 600. What I was wondering was, in your knowledge,  
23 whatever that may be, firsthand if --

24 A. How I understand it.

1 Q. Right. Would that same situation be  
2 possible in the Model 700 if the 700 safety was  
3 placed in an intermediate or null position? And I  
4 use the word "possible."

5 A. My understanding is, as designed, it would  
6 not be possible in the 700 control, barring  
7 alteration or damage to parts that would allow the  
8 sear to get that low.

9 Q. How about a Model 700 rifle -- ? Strike  
10 that.

11 Is that your understanding after  
12 talking with various people that work for you, like  
13 Mr. Sienkiewicz or Mr. St. John or Mr. Hutton or  
14 other people?

15 A. It's my understanding talking to those  
16 people. They don't work for me, but they work for  
17 the company.

18 Q. Is that where you get your information from?

19 A. That's right. People have told me that. I  
20 can't say that those are the exclusive people.

21 Q. How about if you have a situation  
22 which -- ? Do you know how the trigger relates to  
23 the trigger connector, interacts?

24 A. I know what the trigger connector is. I'm

1 not sure the dynamics of --

2 Q. I'm going to try this, and we may not get  
3 anywhere. How about if the trigger connector which  
4 sits in the trigger doesn't fit quite as tightly as  
5 Remington's specifications now require that it  
6 does. Rather than having a maximum of .006  
7 clearance in which to operate, it has .010  
8 clearance. In other words, it's got a little bit  
9 more vertical play. If the trigger is pushed  
10 forward while the rifle is on safe, the trigger  
11 connector rides up for some reason to the top of --  
12 to its highest point so the play between the trigger  
13 and the trigger connector is on top of the trigger  
14 and attempts to return back underneath the sear  
15 which has a lift of only .085 in the first place, it  
16 only lifted .085 up in the first place when you  
17 pulled this out. This has a play of .010. Would  
18 you see a possibility that the trigger connector  
19 cannot return underneath the sear just like in the  
20 Model 600s in the trick condition?

21 A. Well --

22 Q. If you feel comfortable answering the  
23 question.

24 A. I don't feel comfortable only because I

1 don't know how the trigger connector fits on the  
2 trigger.

3 Q. Then I don't expect an answer. We'll leave  
4 it at that.

5 Do you understand kind of what I was  
6 talking about there?

7 A. Yes.

8 Q. Have you talked that situation over with the  
9 people that you work with in these litigation cases,  
10 Mr. Hutton, Mr. Hennings, Mr. Stekl,  
11 Mr. Sienkiewicz, et cetera?

12 A. The situation of the trigger connector and  
13 the trigger probably have come up in discussions. I  
14 don't remember ever posing that question.

15 Q. Now, were you involved in the recall of the  
16 Model 600 rifle?

17 A. I was in aspects of it, yes.

18 Q. What aspects do you remember being involved  
19 in?

20 A. Well, I remember reviewing notices, the  
21 wording of notices. That was really the extent of  
22 my.... I didn't get involved in the actual contact-  
23 with-people situation.

24 Q. In the Model 600 litigation -- excuse me --

1 recall, did you follow this procedure which had been  
2 established on 10/6/75, in general?

3 A. Well, in general from the standpoint of what  
4 we did was, we called a product safety subcommittee  
5 meeting and we discussed the question of the 600. I  
6 can't say we went right down the list.

7 Q. There's some language in there that I'm  
8 interested in and, being a lawyer, you'll know why  
9 I focus on words. Down here it mentions, and I'll  
10 point it out to you, "If it is determined by the  
11 subcommittee that there may be a substantial safety  
12 hazard" -- substantial safety hazard -- "the  
13 subcommittee shall observe the following procedures  
14 in determining whether a product recall should be  
15 recommended." Now, did you make a determination  
16 that with respect to the Model 600, there was a  
17 substantial safety hazard which required you to go  
18 through the recall evaluation and finally issue the  
19 recall?

20 A. To really be clear, I'd have to look at the  
21 minutes. I don't know what it says. I don't  
22 remember us saying that. This, of course, gives  
23 you --

24 Q. I'm giving you your chance to explain it the

1 other way.

2 A. Yes. Well, we don't make that determination  
3 on every recall we go through. A lot of times we  
4 recall product even though we don't feel that  
5 there's a substantial safety hazard. I'm speaking  
6 mainly of ammunition now, for instance. We may feel  
7 that the pressures generated are a little higher  
8 than we'd like and would cause some damage to guns  
9 but it has no possibility of damaging people. We  
10 may recall that because we think it's damaging to  
11 the reputation of the company or, you know, it's a  
12 good thing to recall it.

13 This really specifies when you really  
14 have to recall. I mean, there's no discretion.  
15 When you find a substantial safety hazard, we go out  
16 to recall. We may recall for lesser reasons.

17 Q. Do you remember now whether the Model 600  
18 recall was for what you would term a lesser reason  
19 or whether you felt that it was a substantial safety  
20 hazard?

21 A. Well, the 600 problem was such a, what we  
22 considered, at least I considered, such a bizarre  
23 set of circumstances that whether it would ever  
24 happen to cause an injury was problematical. And it

1 was very, very remote. We went out because it was a  
2 time in which we had the Coates case. The Coates  
3 case had been settled with a lot of publicity on the  
4 case.

5                   What the rifle of the 600 would do,  
6 that is, the trick situation, was fairly well-known;  
7 and the more knowledge people would have out there,  
8 the more possibility, I suppose, that people would  
9 do this. When I say "this," I mean a trick  
10 situation. And also it would be very difficult if  
11 in fact a gun was trickable to argue persuasively  
12 that that wasn't the cause of an accidental firing,  
13 a claimed accidental firing.

14 Q.           Was Remington or the product safety  
15 committee at Remington afraid that if they published  
16 information about the trick condition, that people  
17 would try to induce that condition in rifles just to  
18 see if they'd do it?

19 A.           Well, I don't think "afraid" is the right  
20 word. I think whenever you go out for a recall in a  
21 context of explaining how a gun can be altered or  
22 manipulated to cause a firing, you're always  
23 concerned that somebody might just attempt to  
24 manipulate it that way.

1 MR. MILLER: Let's take a break right  
2 now. It's a good point.

3 (Short recess taken)

4 BY MR. MILLER:

5 Q. I'm going to hand you Plaintiff's Exhibit

6 UU. Have you seen that before?

7 A. Yes.

8 Q. In what context have you seen that before?

9 A. I've seen it in the context of litigation.

10 Q. Do you know why that was prepared in the  
11 first place?

12 A. I believe it was prepared by Robert Hillberg  
13 in response to our request for him to make a study  
14 of the bolt-action rifles on the market available in  
15 the U.S. at that time and analyze the various  
16 features that each of these rifles had. And that's  
17 what he did. He made this chart and listed the  
18 features in columns and then indicated which of the  
19 various bolt-action rifles had what feature.

20 Q. And that is dated April 4, 1974. Correct?

21 A. That's right.

22 Q. Have you seen a similar study like that  
23 reflecting the same information for instead of  
24 commercial bolt-action high-power rifle safety

1 study, it would be a military bolt-action high-power  
2 rifle safety study?

3 A. I may have. I don't -- I don't remember  
4 specifically.

5 Q. Was it you who requested Mr. Hillberg to  
6 prepare this study?

7 A. I believe I did, yes.

8 Q. If the case is closed, how did this -- ? If  
9 it's open, don't bother to answer the question. But  
10 if it's closed, how did this study import in that  
11 case? Why was it relevant?

12 MR. SHAW: Listen, before you answer  
13 that, Mr. Sperling -- and I'm sure you understand  
14 this and I've been a bit confused by this  
15 distinction, though, that Mr. Miller has drawn. I  
16 think as Mr. Miller knows, as you know, as I know,  
17 the work-product or attorney-client privilege does  
18 not evaporate or disappear once a case has been  
19 closed.

20 So I don't think that that is a  
21 distinction to be drawn, Mr. Miller, that  
22 Mr. Sperling need feel free to discuss with you  
23 anything just because a particular case has been  
24 closed. And bearing that in mind, Mr. Sperling, as

1 I'm sure you are, I'm not going to purport to  
2 instruct you not to answer at this time. You can  
3 consider that question.

4 BY MR. MILLER:

5 Q. Go ahead, Mr. Sperling.

6 A. Well, I believe it was a chart to show what  
7 was in existence at that particular time with  
8 respect to what the consumer could purchase, his  
9 choices, and to indicate what, if you will, the  
10 state of the art of the bolt-action design area was  
11 at the time of its preparation.

12 Q. Was it to show that other people, other  
13 manufacturers, were utilizing two-position safeties  
14 with bolt locks besides Remington?

15 A. Well, it did show that. But that wasn't the  
16 sole purpose of the chart. It was to show the  
17 availability and what was out there.

18 Q. Have you had this chart updated at any time  
19 since April 4, 1974?

20 A. I believe we've had charts at different time  
21 periods using that chart as a base. I don't think  
22 we've sort of added on to it. I mean, we've  
23 originated a new chart for a certain litigation and  
24 that kind of thing.

1 Q. Is it part of your duty as counsel to review  
2 the firearms literature, the trade publications with  
3 respect to firearms, for design changes, different  
4 types of rifles, things like that?

5 A. No.

6 Q. Do you do that as a matter of course even  
7 though it may not be part of your duties?

8 A. No, I don't, because I'm not a hunter and I  
9 don't feel myself qualified.

10 Q. Have you ever seen any studies that you can  
11 remember dealing with the fire-control system of  
12 Model 700 bolt-action rifles?

13 A. Well, it's a broad question. I've seen --  
14 You mean as a general generic system as opposed to  
15 one particular gun being analyzed?

16 Q. Right. It may be the result of a lot of  
17 guns being analyzed which is summarized in this  
18 study I'm talking about, or it may be just a general  
19 study of the fire-control system. I don't have  
20 anything particular in mind. I'm just trying to  
21 find out if I've touched all the bases in this area  
22 and giving you one last chance at the present time  
23 to remember anything. Of course, if later on you  
24 come up with something else, feel free to add it in.

1 A. I don't remember reading through a study  
2 explaining bolt-action rifle trigger assemblies or  
3 analyzing them. As I sit here now, I don't remember  
4 any report as such. Orally I've talked over results  
5 of audits and that kind of thing, but I don't  
6 remember seeing anything in writing.

7 Q. What have you talked over orally when you  
8 mention results of audits? Could you go into that a  
9 little bit further?

10 A. Well, the audit I'm really specifically  
11 thinking of is the one that was discussed in the  
12 early 1979 minutes of the product safety  
13 subcommittee when the discussion turned on the 700  
14 and whether it had the same problem as the 600 and  
15 hearing people talk about results of their testing  
16 and evaluation, that kind of thing.

17 Q. Do you remember it in any specific without  
18 referring to the minute regarding those discussions  
19 or that meeting?

20 A. Anything specific?

21 Q. Yes. You said you remember some people  
22 discussing whether or not the 700 had the same  
23 problems as the 600.

24 A. Yes. And I remember the conclusion was it

1 did not. But specifically I don't --

2 Q. Do you remember any of the reasons why it  
3 did not?

4 A. Why it did not?

5 Q. Yes. Or any of the reasons why people  
6 thought it might have had the same problems in the  
7 first place.

8 A. Well, I think the analysis was on all bolt-  
9 action rifles that Remington produced. And I don't  
10 remember the technical reasons why it didn't, but  
11 the design and the fire control just didn't lend  
12 itself to that.

13 Q. Do you remember a series of eight safety  
14 evaluations of various model bolt-action rifles  
15 manufactured by Remington done before this meeting?

16 A. I'm sorry. I missed that.

17 Q. Do you remember a series of eight numbered  
18 safety evaluations or tests done on Remington bolt-  
19 action rifles -- test number one might be on one  
20 rifle, test number two on another one -- prior to  
21 this product safety subcommittee meeting that you --

22 A. No. No.

23 Q. How are the product safety subcommittee  
24 minutes organized?

1 A. Just chronologically.

2 Q. There's a numbering system, I've noticed, on  
3 some of them. Is that still being used?

4 A. I think so. As I remember it in reviewing  
5 it, I think they started with the number one at the  
6 beginning of each year so that at the end of a year  
7 you may have four meetings. The next year would  
8 start with the number one. It wouldn't just  
9 continue on.

10 Q. Mr. Partnoy indicated that the head of that  
11 committee was the supervisor of the research  
12 division or superintendent of the research division.

13 A. Director of research. Traditionally he's  
14 the chairman.

15 Q. The chairman. And he said that his  
16 secretary would have kept those minutes in her  
17 office. Is that your understanding of the way that  
18 things worked?

19 A. It could be. I know when I searched through  
20 the records, the originals I find with the secretary  
21 of the committee. Now --

22 Q. There was a secretary of the committee?

23 A. Yes.

24 Q. Who was that?

1 A. Well, it's changed through the years. That  
2 didn't fall to a position. That was an individual  
3 who -- I was going to say traditionally out of  
4 research. But it started in research and now  
5 recently, for some reason, the last few have been  
6 out of marketing.

7 I don't know how they're selected. Up  
8 and through to the late '70s it was primarily an  
9 individual from research that was selected to attend  
10 each meeting and keep the minutes.

11 Q. And he would pass the minutes on to the  
12 subsequent secretary?

13 A. Yes. The original book would be passed on.

14 Q. How large of a book is the minute book now  
15 for this committee, if you know?

16 A. Well, it started in '71, as I remember, and  
17 I think there is -- How can I state this? There's  
18 two books. One is about that thick (indicating), a  
19 black bound book, and the other one is very small,  
20 just started.

21 Q. One is about an inch and one is very small,  
22 just started?

23 A. Just starting in '82 or '83 or something.

24 Q. The first one is about an inch, though?

1 A. I think so. Could be an inch and a half or  
2 something.

3 Q. All right. Now, I have here what has been  
4 produced to me in a couple batches, the product  
5 safety subcommittee minutes. And the first thing  
6 I'm going to ask you is not concerning any  
7 particular minute but I'm just going to go through  
8 what I've analyzed here as gaps is what I call them.  
9 Now, I want to know if you have any recollection of  
10 whether or not any committee meetings occurred in  
11 those gaps, first; and, second, if they did, whether  
12 they had anything to do with bolt-action fire-  
13 control systems. You can look at these if you want  
14 to.

15 I'm going to tell you the same thing I  
16 told Mr. Partnoy. When originally produced, we  
17 didn't have all the product safety subcommittee  
18 minutes that were subsequently produced, so this is  
19 a little confusing. The first stapled group is  
20 Exhibit QQQQ, which was a later one that was added  
21 so I had it identified separately. When you get  
22 back to the second batch, you see an Exhibit W.  
23 Now, that was our original batch of product safety  
24 subcommittee minutes and we numbered them

1 sequentially up in the upper right-hand corner  
2 beginning with W-1. But if you go back you'll find  
3 various places where other things have been  
4 interspersed which were subsequently produced.

5                   And what I've tried to do is put  
6 everything in chronological order. And some of them  
7 have been identified separately; some of them still  
8 are unidentified. So when you look through it,  
9 that's the reason for the -- it'll jump around in  
10 exhibit numbers. Feel free to look at whatever ones  
11 you want to look at.

12                   Let me tell you what my questions are,  
13 first, and then maybe you can either answer them  
14 shortly or go ahead and look and then answer them  
15 when you get the chance. According to my  
16 evaluation, and I think it's fairly complete now,  
17 the first one is dated 3/24/71.

18 A.           Yes.

19 Q.           And then there's a four-year gap roughly  
20 before I get to the second minute -- By the way,  
21 the first one is QQQQ. There's a four-year gap  
22 before I get to the second minute, which is W-1 and  
23 W-2 of Exhibit W, and W-3 apparently, which is  
24 4/10/75. Now, do you remember during that period

1 whether any product safety meetings took place that  
2 might not be reported on?

3 A. Well, let me say this. I don't know of any  
4 meeting that did not produce written minutes of the  
5 subcommittee. To the extent that these copies were  
6 produced by me -- and, as I remember, I did do  
7 that. I went through the minute book and produced  
8 everything, and I can't remember what the topic was;  
9 I believe it was bolt-action rifles, or there was  
10 certain designated models. I went through and  
11 pulled those minutes that pertained --

12 MR. MILLER: Let me stop you for a  
13 second here. I'm sorry.

14 (Discussion off the record.)

15 BY MR. MILLER:

16 Q. Why don't you finish your answer on the  
17 record now?

18 A. Let me hear the last words on the record.

19 (The Reporter read back as requested.)

20 A. -- that pertained to those model requests.  
21 I know for a fact that I did not supply minutes or  
22 portions of minutes that applied to other models or  
23 ammunition. So I know there are gaps, if you  
24 consider that a gap.

1 I cannot sit here and look at this and  
2 tell you between 1971 and 1975 whether there was a  
3 meeting on something other than a bolt-action rifle  
4 or whether there was no meeting at all. But my  
5 remembrance is that I pulled everything on the bolt-  
6 action rifles or at least the designated modelings  
7 that you gave me. I can't remember the question.  
8 So I know that there are gaps, but I can't looking  
9 at this tell you whether those gaps were because I  
10 didn't pull them or there was nothing to pull.

11 Q. Just the last question I have tonight is:  
12 The thing I'm particularly interested in is the  
13 period, as I've said, from June and July of '75  
14 through about October of '78, a three-year period.  
15 It was during that period that the Coates case was  
16 filed. The minutes just before that period involved  
17 claims that the Model 600 would trick --

18 A. That's '75?

19 Q. 1975. -- and also some indication that you  
20 had some model 700s FSR'ing. There are three  
21 minutes in that period, No. 1, No. 2, No. 3 and  
22 No. 4 dating from 1975. Then there's a three-year  
23 gap before anything picks up again. And that's the  
24 second area that I'm particularly interested in.

1 Because it seemed to me you were hot on the trail of  
2 something there and then all of a sudden it's three  
3 years later before we get the next minute. And so  
4 when you check that period, are you telling me the  
5 situation is either there were no relevant minutes  
6 or there were no minutes whatsoever, one or the  
7 other?

8 A. What I am saying that I can tell you is that  
9 between '75 and '78 there were no relevant minutes  
10 on bolt-action models that you designated. I can't  
11 tell you whether there was a discussion on some  
12 ammunition or shotgun problem that surfaced in that  
13 time period.

14 MR. MILLER: Just so you know what I'm  
15 going to be doing, I'm going to be going through  
16 these pretty much step by step with you. I'm not  
17 going to do it now. What we'll try and do is maybe  
18 pick it up some time Thursday and work around Mr.  
19 Barrett.

20 THE WITNESS: All right.

21 (Discussion off the record.)

22 MR. MILLER: So we'll resume tomorrow  
23 morning with Linde at 9:00 a.m.

24 MR. SHAW: Okay.

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(Deposition recessed at 5:35 p.m. to a date to be determined.)

I N D E X

<u>DEPONENT:</u> Robert B. Sperling	<u>PAGE</u>
Examination by Mr. Miller	2

(There were no exhibits marked for identification.)

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WITH THE ERRATA SHEET

AFTER IT HAS BEEN

COMPLETED AND SIGNED

BY THE DEPONENT.

1 State of Delaware )  
2 New Castle County )

3  
4 CERTIFICATE OF REPORTER

5 I, J. Edward Varallo, Registered  
6 Professional Reporter and Notary Public in the State  
7 of Delaware, hereby certify that there came before  
8 me on the 5th day of November, 1985, at the time and  
9 place specified above, Robert B. Sperling, the  
10 deponent herein, who was duly sworn by me and  
11 thereafter examined by counsel for the respective  
12 parties; that the questions asked of said deponent  
13 and the answers given were taken down by me in  
14 Stenotype notes and thereafter transcribed by use of  
15 computer-aided transcription and computer printer  
16 under my direction.

17 I further certify that the foregoing is  
18 a true and correct transcript of the testimony given  
19 at said examination of said witness.

20 I further certify that I am not  
21 counsel, attorney, or relative of either party, or  
22 otherwise interested in the event of this suit.

23 -----  
24 J. Edward Varallo

DATED: -----