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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

EVELYN LEWY and JACK LEWY, ) No. 83-3172-CV-S-2  
Plaintiffs, ) Springfield, Missouri  
vs. ) June 17, 1986  
REMINGTON ARMS COMPANY, INC. )  
and K-MART CORPORATION, )  
Defendants. )

PARTIAL TRANSCRIPT OF TRIAL  
BEFORE THE HONORABLE WILLIAM R. COLLINSON and a jury

TRANSCRIPT ORDERED BY: William McDonald

APPEARANCES:

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\* \* \* \* \*

(COURT IN SESSION AT 9:39 A.M.)

ROBERT B. SPERLING, PLAINTIFF'S WITNESS, PREVIOUSLY SWORN  
CONTINUATION OF CROSS EXAMINATION

BY MR. HEADLEY:

Q. Mr. Sperling, right before we recessed yesterday afternoon you had stated right at the end of how the publicity in the Coats case had precipitated Remington's decision to recall the model 600 rifle, the 660, those models manufactured before 1975, and as I wrote down the reasons, one was you said that public confidence had been questioned in the 600?

A. That's correct or we thought that it would be questioned.

Q. And that is why --

A. Because of the publicity given to the case.

Q. All right.

A. And the description of how the accident allegedly was to have occurred.

Q. And then as another point that you made was that it would publicize how if you got this 600 rifle, the safety at a certain middle on detented position it might cause people to start playing around with their own -- what was your point on that?

A. Well, that's right. It publicized the misuse and what would happen if you do certain things, that would prompt people to either test it out or try it to see if their own rifle would do that same thing.

1 Q. And then I believe you also stated that with this publicity  
2 it would have an effect on future claims where someone said  
3 there was an accidental discharge. What did you mean by that?

4 A. Well, regardless of how the accident or future injury may  
5 have occurred, if the gun that was being used at the time, the  
6 600, was subjected to this trick condition, it could be  
7 tricked, that would be the allegation that that's what happened  
8 in this particular case.

9 Q. Now the minutes that you read of January 2, 1979, of the  
10 Product Safety Subcommittee meeting which was Plaintiff's  
11 Exhibit I-12, in which you read it stated at the end as you  
12 read it that the subcommittee decided against a recall for the  
13 following reasons, which you stated and then at the end para-  
14 graph it said the subcommittee decided to recommend that an  
15 information -- and that was decided against a recall of all the  
16 pre '75 Remington center fire bolt action rifles, and then you  
17 stated that the subcommittee decided to recommend that an  
18 informational warning concerning accidental firing and safe gun  
19 handling be prepared and effectively communicated to the gun  
20 handling public. Now, I think you were right on that point.  
21 What was the situation there and what did Remington do with  
22 regard to getting this information and what was it, getting it  
23 out to the public?

24 A. Well, I think the minute you're referring to is the January  
25 1979 minute which we were discussing not only the details of

1 the model 600 recall, but also what, if anything, needed to be  
2 done with the other bolt action rifles that we had, primarily  
3 the model 700. We decided that since our examination of the  
4 problem revealed that there was no tricking problem with the  
5 model 700 that the way to go about what seemed to be the pro-  
6 blem here, and that is misuse of the gun, was to launch into an  
7 advertising informational educational program which got the  
8 word out to the public. Now that the model 600 tricking situa-  
9 tion was out before the public, we decided to go out with a  
10 very strong ad on the don't be half safe type of situation,  
11 don't play with your safety, and that was not to be directed  
12 just to the model 600 but to every bolt action rifle, every  
13 rifle in fact and that's how that ad was framed. In addition,  
14 we went out with informational posters and ads in papers, tele-  
15 vision spots, radio spots, not only Remington but the whole  
16 industry through our industry organization which is called  
17 SAAMI and that's been testified to before here I believe, it's  
18 the industry organization. I came up with ads of 10 of the  
19 most salient gun handling rules that would prevent almost any  
20 accident you could think of and publicized those strongly to  
21 get at the real heart of the problem which we discovered  
22 through all of this examination and investigation and that was  
23 customer misuse of the firearm.

24 Q. I'll show you what's been marked as Defendant's Exhibit  
25 #38, and ask you if that is not a representative sample of the

1 advertising that was done and publicity in this informational  
2 campaign of safe gun handling practices and warnings.

3 A. Yes, this was the SAAMI informational bulletins which were  
4 put in booklet forms, poster forms, and placed in sporting  
5 magazines nationwide.

6 Q. For example -- what, that is a representative sample I  
7 think?

8 A. Yes.

9 MR. HEADLEY: We'll offer in evidence Defendant's  
10 Exhibit #38. You've got a copy of it.

11 MR. McDONALD: No objection.

12 THE COURT: It will be admitted.

13 BY MR. HEADLEY:

14 Q. Now this first page there that you have for example, if you  
15 can kind of hold this up, what's the lead caption here on this  
16 particular ad?

17 A. Well, the lead caption is "Firearms Safety Depends on You",  
18 and that was sort of the general theme that we tried to inject  
19 into each poster regardless of the message, that it was safety  
20 depends on you, get the hunter and user into the safety pro-  
21 gram.

22 Q. And the lead caption on this copy of another ad that's here  
23 on the first page of Defendant's Exhibit #38?

24 A. "Don't rely on your gun's safety. Treat every gun as if it  
25 were loaded and ready to fire." The tag line in each of these

1 ads was always "Make no mistake about it. Firearms safety  
2 depends on you. Make no mistake about it."

3 Q. Now I'm not going to have you go through every page. How  
4 many pages are there on that exhibit? I think they're num-  
5 bered.

6 A. Twenty.

7 Q. Twenty?

8 A. Twenty pages.

9 Q. I'll refer you to page 4. Again there appears this caption  
10 "Firearms safety depends on you" in the left-hand part of it  
11 which is a copy of an ad. What's the first admonition that  
12 appears there?

13 A. It says, "Never play around".

14 Q. And on the other side, a copy of another ad. What does it  
15 say as number one there?

16 A. Well, number one, and they're all illustrated by little  
17 pictures that sort of illustrate the safety message -- the  
18 first one there says "Never point a hand gun at anything you  
19 don't intend to shoot".

20 Q. And that has pictures of pistols for example?

21 A. Yes, this ad specifically was directed toward handguns,  
22 basics of handgun safety.

23 Q. And then also I'll refer you down -- my copy doesn't number  
24 the pages -- to for example page 9, does that give a listing of  
25 some of the magazines or publications where this sort of adver-

1 tising appeared?

2 A. That's correct.

3 Q. Read this left-hand column on page 9.

4 A. Well, it says American Hunter, American Rifleman, American  
5 Shotgunner, Ducks Unlimited, Guns Magazine, Field and Stream,  
6 Guns and Ammo, Gun Week, Gun World, Hunting Magazine, Outdoor  
7 Life, Rifle Magazine, Shooting Times, Skeet Shooting Review and  
8 Sports Afield.

9 Q. And then on the next page I think there's one more.

10 A. Trap and Field.

11 Q. All right. Now I'll also hand you, Mr. Sperling, what has  
12 been marked as Defendant's Exhibit #65, 66, and 67, and ask  
13 you if those are not other minutes of the Product Safety  
14 Subcommittee meetings concerning this advertising?

15 A. Yes, these are three more minutes of meetings we had which  
16 one of the topics was the circulation of gun handling messages  
17 to the public.

18 MR. HEADLEY: I'll offer in evidence Defendant's  
19 Exhibit #65, #66 and #67.

20 MR. McDONALD: No objections.

21 THE COURT: It'll be admitted.

22 Q. Defendant's Exhibit #65 is a meeting of the Product Safety  
23 Subcommittee of what date?

24 A. This is dated February 23, 1979.

25 Q. And will you read the caption there on that exhibit of

1 these minutes? What does that say?

2 A. "Safe Gun Handling".

3 Q. Safe gun handling?

4 A. Correct.

5 Q. Read that please.

6 A. The submitted suggestions of Hill and Nolton for the  
7 promotion of safe gun handling were reviewed and dis-  
8 cussed by the subcommittee. The proposed warning con-  
9 cerning the trick condition in bolt action rifles was  
10 approved with some language modification to make it  
11 technically more accurate. (Copy of approved version  
12 attached). It was decided that the marketing and  
13 public relations departments would consult with Hill  
14 and Nolton with respect to means of disseminating a  
15 warning.

16 Q. Now let's stop. Hill and Nolton were who?

17 A. Hill and Nolton is an agency in New York that consults and  
18 prepares publications, warnings, statements, that kind of  
19 thing.

20 Q. All right. Now continue on please.

21 A. Other suggestions submitted by Hill and Nolton con-  
22 cerning the promotion of safe gun handling were  
23 reviewed and discussed. It was decided that Remington  
24 should draft a general outline utilizing these sugges-  
25 tions and submit this proposed safe gun handling pro-



1  
2           gram to the Sporting Arms and Ammunition Manufacturers  
3           Institute, SAAMI, for consideration and possible  
4           industry action.

5 Q. Now what is SAAMI? That S-A-M-M-I, right?

6 A. Yes, that's the Sporting Arms and Ammunition Manufacturing  
7     Institute. These are manufacturers of sporting arms and ammun-  
8     ition who join in organization and meet and discuss common  
9     problems and have seminars and that kind of thing.

10 Q. Now if you'll refer to the next exhibit, Defendant's  
11     Exhibit #66, it's there to the left of you.

12 A. Yes.

13 Q. And that's a copy of that portion of the safety sub-  
14     committee meeting on what date?

15 A. That took place April 6th 1979.

16 Q. Now that copy there is that portion of the minutes of that  
17     meeting that had reference to the 600 rifle, is that correct?

18 A. Yes, this first portion of it says "Recall of the Mohawk  
19     600 rifle".

20 Q. All right. If you will just read that please.

21 A.       Recall of certain Remington models, 600, 660 and  
22       Mohawk 600 rifles and XP100 pistols. A letter was  
23       mailed to all of our key dealers on February 8th 1979,  
24       giving them information on the procedures for this  
25       recall and asking them to furnish us with names and  
      addresses of customers owning these products.

1 Responding to this letter, 470 dealers have furnished  
2 names and addresses of 5,089 gun owners. A letter  
3 will be now mailed to each owner requesting him to  
4 return his gun for repair. A. W. Bell has obtained a  
5 list of federal firearms licenses comprising about  
6 170,000 names. After the names of the key and A  
7 dealers to whom letters have already been sent are  
8 removed from the list, the subcommittee will consider  
9 a procedure for mailing a letter to the remainder to  
10 obtain names of customers who bought rifles under  
11 recall. A statement on the trick condition will be  
12 published in various periodicals from May through  
13 April 1980 according to the advertising schedule  
14 attached, Exhibit A.

15 Q. And then on page 2, what appears there and read that  
16 please.

17 A. Mr. Larson presented a summary of recall statistics to  
18 date as follows: number of Atlanta calls, 21,254;  
19 number of repairs made by gunsmiths, domestic, 13,057,  
20 Canada, 301; number of guns repaired at Ilion, model  
21 600, 660 - 429, model XP100 - 727, total 1,156; number  
22 of trigger assemblies shipped to gunsmiths, 19,303;  
23 number of triggers on hand at Ilion, 1,300.

24 Q. Now that point where it says number of trigger assemblies  
25 shipped to gunsmiths, there's been testimony already in this

1 case that part of the remedy for this 600 rifle was to install  
2 the 700 fire control in it, is that correct?

3 A. I've heard that stated. Basically it was a model 700 type  
4 fire control. It had to be modified for the 600 situation but  
5 basically it was the 700 design concept.

6 Q. All right. Then I think over here on page 3 if you would  
7 read that please, of this exhibit, Defendant's Exhibit #66.

8 A. Safe Gun Handling. An ad hoc task force on shooting  
9 safety has been organized by SAAMI. At a meeting on  
10 April 5th 1979, the task force considered the develop-  
11 ment of a program for effective communication with  
12 consumers and the general public concerning gun  
13 safety. It is proposed to develop a series of speci-  
14 fic messages on gun safety topics to be disseminated a  
15 advertisements, film strips or other means to be  
16 determined. The minutes of the meeting are attached  
17 as Exhibit B. The task force will meet again in about  
18 three weeks and will present their proposal to the  
19 SAAMI executive committee in June.

20 Q. Now this SAAMI organization is a national organization, it  
21 isn't just a Remington organization?

22 A. No, we're just a member of this organization that's open to  
23 all American and European gun manufacturers that they sell in  
24 this country.

25 Q. All right. Now if you will refer to the remaining exhibit

1 Mr. Sperling which is Defendant's Exhibit #67, and if you will,  
2 sir, tell me the date of that Product Safety Subcommittee meet-  
3 ing.

4 A. It was June 21, 1979.

5 Q. The first page, let me ask you again this copy here is the  
6 extract from the minutes of the meeting at which as I under-  
7 stand other topics were discussed but this extracts only the  
8 model 600 and that recall program. As I understand it, these  
9 safety subcommittee meetings, many topics would be discussed,  
10 is that correct?

11 A. Yes, in any one meeting there could be one or two, three  
12 topics.

13 Q. Concerning any firearm that Remington manufactured, shot-  
14 guns, rifles, is that right?

15 A. Any firearm or ammunition.

16 Q. And any ammunition. And I guess Remington does -- and it's  
17 been mentioned in evidence, does manufacture ammunition of  
18 various types.

19 A. That's correct.

20 Q. Shotgun shells and rifle shells.

21 A. Right.

22 Q. Okay. Now the first page here is put on here to show the  
23 date of the meeting, even though the first topic discussed it  
24 says is the 3006 high pressure loads.

25 A. Yes, that was ammunition.

1 Q. Now, going to that part of the minute which refers to this  
2 600 recall, that is this exhibit here, on page 2, would you  
3 please read that, sir?

4 A. Recall of certain Remington model 600, 660 and Mohawk  
5 600 rifles and XP100 pistols.

6 Q. Now let me stop you right there again. We're talking  
7 about recall of model 600 rifles, 660, the Mohawk 600 and the  
8 XP100 pistols manufactured before 1975.

9 A. That's correct.

10 Q. And that was what was involved in this recall.

11 A. Yes.

12 Q. All right. Go ahead and read that part of the minutes  
13 shown here where you're dealing with that subject.

14 A. The status of the product recall was reviewed and  
15 results to date are shown in Exhibit B attached. The  
16 advantages and disadvantages of mailing a notice to  
17 FFL (that's Federal Firearms license) holders in order  
18 to obtain additional names of original purchasers were  
19 discussed. It was decided by the subcommittee that  
20 although we probably would not receive the same per-  
21 centage response as our dealer notification, we would  
22 receive enough to warrant proceeding with the mailing.  
23 The estimated cost of making this mailing was reported  
24 at 20¢ per letter, an approximate total cost of  
25 \$30,000. It was also reported that computer opera-

1 tions would attempt to remove to the extent possible  
2 the duplication between our listing of FFL license  
3 holders and the list of dealers that we have already  
4 notified. A discussion was held at this point on  
5 whether or not the Atlanta phone system should be shut  
6 down and future calls referred directly to our  
7 Remington phone numbers. It was decided that since we  
8 pay a nominal rate per call for this service it would  
9 be best to leave this facility open at least until  
10 notices are sent to consumers obtained from the FFL  
11 mailing.

12 Q. And FFL again is what?

13 A. Federal firearms license.

14 Q. Now going to the next page, please read that.

15 A. Remington safe gun handling campaign which will be  
16 supported by SAAMI, was initiated in May with the  
17 first publication of the 'half safe is unsafe' adver-  
18 tisement. Concerning the problem inherent in the  
19 improper handling of bolt action rifles and highlight-  
20 ing the danger of tricking the gun safety. A copy of  
21 this ad is attached as Exhibit C. With the commence-  
22 ment of this expensive campaign, it was decided the  
23 company's efforts to reduce accidents would now be  
24 best served by publicizing proper gun handling and  
25 maintenance information rather than to continue runn-

1           ing model 600 recall notices producing diminishing  
2           returns. The message we want to get across is that  
3           the answer to accidental discharge cannot be found  
4           exclusively within the firearm involved and that only  
5           proper gun handling can eliminate injuries resulting  
6           from such occurrences.

7  
8 Q. Now attached to that minute is a copy of that ad that you  
9       were talking about running which says half safe is unsafe, is  
10      that correct?

11 A. That's right.

12 Q. Now, the xerox probably wasn't the greatest in the world  
13      but is that the bold type here on the copy of that page -- read  
14      that.

15 A. The bold type?

16 Q. Yeah.

17 A. "Half safe is unsafe."

18 Q. All right. And if you'll please read that ad.

19 A.       The safeties and triggers on bolt action rifles can in  
20       some cases be manipulated in a way that will cause the  
21       gun to fire when the safety is released. For example,  
22       an accidental discharge can sometimes be caused by  
23       placing the safety somewhere between the fire and safe  
24       positions, pulling the trigger and then moving the  
25       safety to the fire position. Clearly placing and  
      leaving the safety mechanism in a position between

1 fire and safe violates good safety procedures. This  
2 sequence also points up the critical factor in any  
3 potentially dangerous activity, the human factor. No  
4 mechanical device, be it rifle safety or the guard  
5 around a power saw blade is of any value unless the  
6 person operating it uses it properly. No mechanical  
7 device can guarantee safety if it is improperly used  
8 and no individual is completely safe if he or she does  
9 not follow all necessary safety procedures. The  
10 mechanical device used as a gun safety should never be  
11 relied upon as foolproof but should be used as part of  
12 a complete system of safe gun handling including the  
13 following:

14 Q. And what's the first one there?

15 A. Always have the gun pointed in a safe direction when  
16 handling, carrying or firing, when moving the safety  
17 to the fire position for firing or unloading.

18 Q. What's the next one?

19 A. Always operate the safety by placing it in the safe or  
20 fire locations, never in between them.

21 Q. What's the next one?

22 A. Never pull the trigger when the safety is on safe or  
23 in between safe and fire.

24 Q. Has that been a standard rule to your knowledge for some  
25 time, I mean these rules you're reading? It wasn't anything



1 new or novel in the gun industry.

2  
3 A. No, these rules have been publicized except from the stand-  
4 point of the mid position, the safe or the fire, no one con-  
5 sidered that until these considerations in the late '70s.

6 Q. Then read the next one.

7 A. Always unload the gun before entering a vehicle or a  
8 building.

9 Q. What's the next one?

10 A. Never have a finger near the trigger when the safety  
11 is being moved to the fire position.

12 Q. What's the next one?

13 A. Remember that a safety cannot prevent all accidental  
14 firings and act accordingly.

15 Q. What's the next one?

16 A. The instant a hunter or shooter picks up a gun he or  
17 she becomes part of the system, both in terms of oper-  
18 ation and safe handling. From that point on, not  
19 withstanding --

20 Q. No consideration.

21 A. No consideration of the system's functions can ignore  
22 what the shooter does, for the shooter is the only  
23 part of the system that has control over the  
24 operations and can make a gun safe or unsafe.

25 Q. And what's the bottom line?

A. After all, the gun operator is the primary safety. To

1           rely entirely on mechanical devices is to be at best  
2           only half safe.

3           Q. Now Mr. Sperling, I'm going to hand you what is Defendant's  
4           Exhibit 68 and ask you to look at that and identify it and tell  
5           me what that is.

6           A. This is a Product Safety Subcommittee meeting on January  
7           22, 1980.

8           Q. And again, is that on this subject and that part of the  
9           minutes from that meeting that were extracted that refer to  
10          this recall of the 600 series?

11          A. That's correct.

12                 MR. HEADLEY: Defendant will offer in evidence Defen-  
13          dant's Exhibit #68.

14                 MR. McDONALD: No objection.

15                 THE COURT: It will be admitted.

16          Q. Now if you will take that, Mr. Sperling, Defendant's  
17          Exhibit #68, and what's the caption there on the first page  
18          designating the subject matter?

19          A.         Recall of certain Remington model 600, 660 and Mohawk  
20                 600 rifles and XP100 pistols.

21          Q. And then read what follows.

22          A.         The status of the product recall and the results to  
23                 date were reviewed. It was reported that 23,318  
24                 recalled guns have been repaired since the introduc-  
25                 tion of the recall. Returns have been steadily

1 declining. Through December 31, 1979, 25,000 tele-  
2 phone calls have been received at our Atlanta toll  
3 free number. We are down now to about seven calls a  
4 day. The Atlanta number will remain open until fur-  
5 ther evaluation. In August of 1979, approximately  
6 130,000 letters (see copies attached as Exhibit A)  
7 were sent out to federal firearms license holders  
8 requesting the names of customers who purchased  
9 recalled guns. Remington received the names of 1,922  
10 customers to whom we mailed copies of our recall  
11 letter.  
12

13 Q. Then go to the next page.

14 A. Pending litigation involving claims against guns sub-  
15 ject to recall was discussed. The current status of  
16 Remington's audit on the model 700 was also presented  
17 which showed that from June 13, 1978, to June 15,  
18 1980, 3,376 model 700s returned to Ilion for service  
19 were tested for the trick condition.

20 Q. Now let me stop you right there. You say that from June  
21 13, 1978, to January 15, 1980, there were 3,376 model 700s  
22 returned to Ilion for service. What does that mean?

23 A. These were guns that were sent in to our company firearms  
24 service department for repair or complaint or some indication  
25 that they wanted us to look at the gun.,

Q. Would this be for things like fixing the gun stock or

1 put on new sights or put in a new bolt, anything that might  
2 come back?

3 A. Anything that comes back for whatever reason.  
4

5 Q. And then continue on reading after where it says 3,376 700s  
6 were returned to Ilion for service or repairs of various  
7 types.

8 A. Of those guns -- we took all of those guns regardless of  
9 why they came back and tested them for the trick condition.

10 Q. All right. Then read on.

11 A. Of this sample 35 guns failed the trick test but of  
12 these 35 guns 22 guns were trickable because they had  
13 been altered or damaged out in the field. This means  
14 that the audit to date indicates that only about four  
15 tenths of a percent of the audited model 700s were  
16 susceptible to tricking due to causes not attributable  
17 to customer misuse. It is also known that only four  
18 tenths of a percent of the guns manufactured before  
19 1975 are so susceptible.

20 Q. Now when you say four tenths of a percent, you're saying  
21 .004?

22 A. That's correct.

23 Q. It would be like 4/1000?

24 A. Well, it's .4%.

25 Q. Or four tenths --

A. Of 1%.

1 Q. That's what I'm trying to get at.  
2

3 A. Right.

4 Q. Four tenths of 1%.

5 A. Right.

6 Q. So of these -- now tell me about this -- you mentioned yes-  
7 terday something about it being a skewed sample and I asked you  
8 to clarify the meaning of that word skewed that you used.

9 A. Yes. When you go out to try to determine what percentage  
10 of a product does certain things, what you usually do, what's  
11 the best procedure is to go out and take a random sample from  
12 all areas to get a representative sample. We didn't do that in  
13 this case, we just took the guns that were already coming back  
14 to the factory for some problem or for some reason for service,  
15 so it was skewed in the sense that we were taking the guns that  
16 people were already claiming were either malfunctioning or  
17 needed some repair of some sort. It wasn't a representative  
18 sample. But we took this just to get a feel for what the situ-  
19 ation was out there with respect to the model 700. We knew  
20 what it was out there in the 600 because when we did the 600 we  
21 did take a representative sample, we got 600 to 1000 guns back  
22 from all areas of the country. Here we just took them as they  
23 came in and as you can see, the figures were so low that it  
24 showed clearly that there was no inherent design problem with  
25 the 700 when it comes to the question of capability of being  
tricked.

1 Q. And I take it then again as you have said, of the 3,376  
2 700s, of these problem guns that came back for repair or some-  
3 thing of some type, you tested every one and you found 35 of  
4 them could trick but 22 of them were so trickable because the  
5 owner had altered or tampered with the trigger mechanism in  
6 some way or the other.

7 A. That's right, or damaged out in the field, something had  
8 happened to the gun out in the field that caused this ability  
9 to be able to put it in the mid position and trick the gun.

10 Q. All right. Now read on to that next -- you read that para-  
11 graph, now read the next paragraph.

12 A. Since January of 1979, Ilion has added a new test to  
13 the model 700 audit which involves turning the  
14 returned model 700 on its back and inserting a screw  
15 driver into the trigger assembly and attempting to  
16 trap the connector so that it cannot move freely back  
17 under the sear. In this condition the gun will fire  
18 when the safety lever is moved to the fire position.  
19 This has been termed 'firing off safe'. Since the  
20 inception of this new test 38 returned model 700s were  
21 found to 'fire off safe' but of this number only nine  
22 would do so because of causes not attributable to  
23 alteration or damage in the field, four of which were  
24 guns manufactured before 1975.

25 Q. So what you're talking about here is this test that you've

1 heard and as you sat through the trial we've been talking about  
2 a lot is you instituted in this audit -- with connection to  
3 this recall, you instituted the screwdriver test where you turn  
4 it upside down and push on the bottom of the connector.

5 A. Yes, that's correct.

6 Q. And it's forcibly pushing the connector up.

7 A. Trying to trap it behind the sear.

8 Q. All right. Now, and of that, those -- well you read the  
9 numbers, over 3,000, you found that --

10 A. Yes, this was performed, by the way, on the same sample  
11 except that it started in January of '79.

12 Q. All right. And then go on and read the next paragraph.

13 A. Even if you combined the number of 'trickable' guns  
14 with the number of guns that will 'fire off safe', the  
15 figures indicate that approximately .6%, 6/10 of a  
16 percent, of the model 700s currently in the field will  
17 be susceptible to tricking or firing off safe.

18 Q. Now your firing off safe as you use it there in those  
19 minutes, are those rifles that will fail the screwdriver test?

20 A. Yes, those rifles that will -- as I described the test, you  
21 can stick something in there -- we used a screwdriver -- any-  
22 thing that fits in there, you can trick the gun, if you will,  
23 by forcing that connector up to be trapped behind the sear.

24 Q. Now you're not an expert on guns and design.

25 A. No.

1  
2 Q. But do you have a general understanding that because some-  
3 thing by forcibly forcing the connector up will fail the screw-  
4 driver test, does that mean that the gun in use in the field  
5 will not operate correctly?

6 A. It is my understanding that there is no correlation between  
7 the two.

8 Q. All right. Now go on and read the next part of that  
9 minutes. I guess now you were on the top of page 3 of  
10 Defendant's Exhibit #68.

11 A. Correct.

12 The status of the model 600 recall and the model 700  
13 audit confirms the wisdom of Remington's previous  
14 determination made in January of 1979 (see Product  
15 Safety Subcommittee minutes dated January 2, 1979).

16 Q. And that's already been read --

17 A. That's what we read, yes.

18 Q. All right, go ahead.

19 That the company's efforts to reduce accidents involv-  
20 ing bolt action rifles would be best served by publi-  
21 cizing proper gun handling and maintenance information  
22 rather than to continue running recall notice produc-  
23 ing ever diminishing returns. Remington's ad, half  
24 safe is unsafe, will run through April of 1980. The  
25 SAAMI sponsored firearms safety ads will be initiated  
in February of 1980 and will be run with heavy inten-



1 sity through 1981. See Exhibit B for samples of the  
2 SAAMI advertising program. It was reported that the  
3 SAAMI booklet, Firearms Safety Depends on You, (see  
4 Exhibit B), is being packed with every Remington fire-  
5 arm shipped from the factory. This program was initi-  
6 ated in Janaury of 1980. It was suggested that  
7 Remington consider putting an insert in its ammunition  
8 boxes which would contain the 10 firearms safety head-  
9 ings found in the Firearms Safety Depends on You book-  
10 let. After discussion it was decided to put the  
11 safety messages on the panels at the back of the shot  
12 shell and center fire ammunition boxes where currently  
13 there is placed product information.

14 Q. In other words now you're talking about that part of  
15 Remington that manufactures ammunition and it was decided to  
16 also put these 10 firearms safety headings -- for example what  
17 you read on safe gun handling practices --

18 A. Right.

19 Q. -- in shot shell and center fire ammunition boxes?

20 A. Yes, on the boxes themselves.

21 Q. On the boxes, okay. And you've now read all of that minute  
22 of January 22, 1980, regarding this subject of the recall of  
23 the 600 series rifles, again the recall being for all those  
24 such rifles manufactured before 1975.

25 A. Yes, that portion of the minute that pertains to that sub-

1 ject.

2 Q. All right. Now I want to bring out too, you said that this  
3 Product Safety Subcommittee minutes that are here as exhibits  
4 are only that part of the meeting where this subject was dis-  
5 cussed and these minutes don't contain -- these exhibits don't  
6 contain the many other subjects also discussed at those meet-  
7 ings.

8 A. That's correct.

9 Q. And there could have been meetings that were held other  
10 than these dates where problems and safety related situations  
11 concerning any Remington product was discussed where this sub-  
12 ject of recall didn't even come up and of course those minutes  
13 are not here.

14 A. That's right. There were meetings when they had other  
15 topics to discuss.

16 Q. All right. And this has been an ongoing thing for years  
17 and years.

18 A. Yes. Well, as I say, this has always been a situation that  
19 Remington discussed. It was formalized at a products safety  
20 subcommittee in 1971.

21 Q. All right. And before that in the '60s they were doing the  
22 same thing only maybe not by a committee of that particular  
23 name.

24 A. That's right.

25 Q. Now, my question is, you were shown some operation

1 committee minutes yesterday also by Mr. McDonald. Now you  
2 aren't a member of the operations committee?

3 A. No, I'm not.

4 Q. You aren't a part of that. That's another group entirely.

5 A. That's true.

6 Q. But is the same thing also true with respect to those  
7 minutes that only that part of operation committee meetings  
8 when they did discuss bolt action rifles, only that part has  
9 been extracted and has been here as exhibits in this case.

10 A. That's correct. The operations committee meets on a  
11 periodic basis, not on an ad hoc basis and it discusses all the  
12 four directions and analysis and future products of the company  
13 and only those portions that related to the bolt action rifle  
14 that we were requested to produce have been produced.

15 MR. HEADLEY: No more questions.

16 REDIRECT EXAMINATION

17 BY MR. McDONALD:

18 Q. Mr. Sperling, I have been listening with a great deal of  
19 interest over the last hour or so and yesterday to your testi-  
20 mony and I want to see if I understand exactly what it is  
21 you're saying. Now, do we agree or do we not agree that a  
22 rifle that fires when you take it from safe to fire is defec-  
23 tive?

24 A. A rifle that will fire when you take it from safe to fire  
25 is a dangerous rifle. Whether it's defective or not depends

1 upon the cause of why it is firing in that manner.

2  
3 Q. If it is because of manufacturing defects by Remington, is  
4 it defective?

5 A. If that's the cause, yes it is.

6 Q. If it is because it is designed improperly, is it defec-  
7 tive?

8 A. If that is the cause, yes, it is.

9 Q. All right. Now, do I understand, sir, that Remington took  
10 the position that a trickable rifle was not a defective rifle?

11 A. Yes, that's true.

12 Q. And instead of warning the public, you decided to launch on  
13 an ad campaign about gun handling safety, is that correct?

14 A. 1978 that was our position, yes.

15 Q. And instead of doing it under Remington's name you used a  
16 trade organization, SAAMI, to do it, is that correct?

17 A. No, we did it under both. We ran Remington ads and SAAMI  
18 also ran safe gun handling ads, one of which included the trick  
19 condition.

20 Q. But you did change the design of the Remington 600 to  
21 eliminate the possibility of a trickable rifle, is that  
22 correct?

23 A. We changed the safety cam dimensions that would eliminate  
24 that possibility, yes.

25 Q. And therefore, Remington had it within its power all along,  
if it changed the design, to do away with the problem, isn't

1 that so?

2 A. They had the power to do that design change all along,  
3 yes.

4 Q. Well, Mr. Sperling, if the design change did away with the  
5 problem, doesn't it follow in your mind, sir, that the original  
6 design was wrong?

7 A. No, it does not follow.

8 Q. Is that the state of mind that is in Ilion, New York  
9 today?

10 A. Well, as I discussed the problem, the problem is one of  
11 trying to trick the gun into a position where it will fire when  
12 the safety is released. That is the problem.

13 Q. You think hunters go out and deliberately try to get in  
14 that position?

15 A. No, that's exactly what our position was.

16 Q. Do you think they accidentally get there?

17 A. No.

18 Q. They don't accidentally get there?

19 A. I don't believe they do, no.

20 Q. They don't carry rifles over their shoulder and get the  
21 fleshy part of their hand against the safety and get it into  
22 the trick position without knowing it's there?

23 A. I don't believe that's possible given the situation, no.  
24 It either goes full safe or it goes on fire when you do that  
25 way.

1 Q. Is that the state of mind that is in Ilion, New York  
2 today?

3 A. It's my state of mind as I testify today.

4 Q. Sir, you're a lawyer from up there and you know those  
5 people. Is that what they're thinking up in Ilion, New York  
6 today? Is that the kind of thought that's going on?

7 A. Yes, I believe so.

8 Q. So when this jury deliberates they can take that into con-  
9 sideration that that's the state of mind of the management of  
10 Remington, is that correct?

11 A. That's right, that the trick condition is not something  
12 that we'll either get intentionally or accidentally. You have to  
13 play with it intentionally to try and do that situation.

14 Q. And is it the state of mind of Remington's management in  
15 Ilion, New York that a bolt lock is not a safety feature?

16 A. That's correct, it's a reliability feature.

17 Q. And the removal of the bolt lock will not eliminate a num-  
18 ber of these problems?

19 A. That is correct.

20 Q. And that is the state of mind of the management of  
21 Remington in Ilion, New York today?

22 A. Yes it is.

23 Q. And you wish this jury to consider that in its delibera-  
24 tions?

25 A. Yes, we do.

1 Q. Now, do I understand, sir, that this safety committee has  
2 been meeting since 1960?

3 A. 1960?

4 Q. In the mid '60s as I understood Mr. Headley's question and  
5 you said yes.

6 A. No, the Products Safety Subcommittee was formed in 1971.  
7 When I said the function of that committee, discussing pro-  
8 blems, how pervasive those problems were in products, was a  
9 function of Remington right from I guess the inception of the  
10 company.

11 Q. Was there a debate that went on within the safety committee  
12 about whether or not the bolt lock should be removed from  
13 rifles?

14 A. No, not that I know of.

15 Q. The subject was never brought up in the mid '60s on?

16 A. Well, I can only testify as to '71, '72 when I began going  
17 to meetings.

18 Q. From '71 to '72 on did the subject come up?

19 A. Whether to take the bolt lock off?

20 Q. Yes sir.

21 A. Not in the products safety subcommittee, no.

22 Q. They never considered it?

23 A. The committee doesn't consider that, that would be a design  
24 consideration that would be the research department.

25 Q. That's because it's not a safety feature in your mind, is

1 that correct?

2 A. Well, yes.

3 Q. And that has been the state of mind of Remington from 1971  
4 to today?

5 A. I believe so. Anyone could raise any question in the  
6 Product Safety Subcommittee and I don't remember that question  
7 ever being raised for discussion.

8 Q. I want to concentrate on the bolt lock for a minute.

9 A. All right.

10 Q. From 1971 since you've been on that committee up through  
11 and including 1982, it was the state of mind of that committee  
12 that having a bolt lock on a rifle was not a safety problem, is  
13 that correct?

14 A. That is correct, yes.

15 Q. So that when the Lewy rifle was manufactured you all never  
16 gave it any consideration at all as to whether it was a safety  
17 problem?

18 A. That had already been decided. We put the bolt lock on and  
19 there was no problem with the bolt lock from a safety consider-  
20 ation standpoint.

21 Q. Now you knew that you had rifles out there that were  
22 FSRing, didn't you?

23 A. We didn't know specific -- every rifle that has either a  
24 trigger or a safety will fire occasionally if it's in incorrect  
25 condition could be possible FSR.



1 Q. Not every rifle, the ones that you, Remington, sell to the  
2 public. Let's don't talk about every rifle, let's talk about  
3 yours.

4 A. Remington rifles.

5 Q. Remington rifles. You knew that they were out there  
6 FSRing, didn't you?

7 A. We did not know that.

8 Q. You never had any knowledge of that?

9 A. We did not know that the rifles that we produce were  
10 susceptible to FSR unless there was a condition that created  
11 it. The design of the gun did not create an FSR condition.

12 Q. I'm going to show you gallery tests here in a minute that  
13 go back into the '70s that show that you had it in the plant.  
14 Aren't you familiar with those?

15 A. Yes, I am.

16 Q. They came right off your assembly line, didn't they?

17 A. That's correct.

18 Q. You knew they would do it brand new off your assembly  
19 line.

20 A. And they were caught and corrected.

21 Q. But that assumes that they're all caught and corrected,  
22 doesn't it?

23 A. No, it doesn't.

24 Q. It doesn't assume that? I'm confused.

25 A. Yes.

1 Q. Tell me what you mean.

2 A. What I mean by what?

3 Q. They come off the assembly line -- tell me what you mean  
4 when you say that it doesn't mean that some of them can get out  
5 in the public hands.

6 A. The design of the gun is not susceptible to having the gun  
7 fire when you move the safety to the fire position. No gun is  
8 designed that way, no gun is manufactured that way. Now some  
9 of them may be incorrectly assembled so that when we get it to  
10 the gallery which is not a finished gun yet, we're still  
11 assembling it and testing the guns, you may have an FSR condi-  
12 tion for many reasons. You may have it for insufficient sear  
13 lift, you may have it for the trigger being jammed up against  
14 the stock of the gun, a broken part, whatever. When you test  
15 it and you find an FSR and we've been testing FSRs, the  
16 industry, I have to go back to the industry, ever since safe-  
17 ties were first put on guns, that when you find that condition  
18 you correct it and you go on from there.

19 Q. But you're the only rifle out there with the resilient  
20 trigger connector in the whole world, aren't you?

21 A. Yes, we are.

22 Q. And you knew back into the '70s, even earlier than the  
23 '70s, that you could have FSRs and you knew that if that's the  
24 case that someone who took a rifle from safe to fire, that  
25 would cause that rifle to go off.

1 A. That wouldn't cause the -- that is the definition of an  
2 FSR. What the cause of that is, you have to go into that gun  
3 and see what is the problem with the fire control.  
4

5 Q. But you knew that there were rifles out there that had fire  
6 controls that would cause the trigger connector not to come  
7 back under the sear, didn't you?

8 A. That would cause that? No. No, we didn't know that.

9 Q. Sir, I'm going to show you --

10 A. We knew it could be altered into that condition or parts  
11 could break so it would go in that condition but we didn't man-  
12 ufacture those fire controls knowing that they would be going  
13 out into guns that would allow them to FSR.

14 Q. But after they got out there you started getting feedback  
15 from people indicating that you were getting gumming up inside,  
16 holding that trigger connector back, isn't that right?

17 A. I think there were some complaints of that nature, yes.

18 Q. And you knew that back in the '70s, didn't you?

19 A. Yes.

20 Q. And you knew there were parts out there -- you knew there  
21 were fire control systems out there where parts had been mis-  
22 manufactured and they were causing bindings of those triggers,  
23 you knew that, didn't you?

24 A. That's a possibility with any gun.

25 Q. But this gun, this is your gun.

A. Yes, I know.

1 Q. Please, let's stay with this one.

2 A. Well, that's true. Anything you can think of could  
3 possibly happen out in the field.

4 Q. Well, sir, this is Remington's rifle with the resiliently  
5 mounted trigger connector. That's the one I want to talk  
6 about.

7 A. All right.

8 Q. All right?

9 A. Uh-huh.

10 Q. And that condition that you knew about, in combination with  
11 the bolt lock, where that would happen, isn't that so?

12 A. That would happen even if you didn't move the bolt lock.  
13 The bolt lock has nothing to do with it. You need the trigger  
14 and the safety.

15 Q. How about in the unloading situation where you've got to,  
16 you absolutely have to take it off safe to unload it? That's  
17 the way you designed it, wasn't it?

18 A. That's correct.

19 Q. And then you changed that in '82.

20 A. We took the bolt lock feature off in '82, yes.

21 Q. And all you did, all you did was shave a little piece of  
22 metal off, isn't that right?

23 A. That's correct.

24 Q. And you saved money doing it, didn't you?

25 A. Well, again, I don't know that much about the costs atti-

1 tude.

2  
3 Q. This little bitty piece right there, right?

4 A. That's correct.

5 Q. What do you think's going to happen, Mr. Sperling, a  
6 hundred years from now with these rifles?

7 A. Hopefully they'll still be functioning if we made them  
8 correctly.

9 Q. Is that the state of mind of Remington's management?

10 A. We try to make a good product and one that will last long.

11 Q. And it will, it will last a hundred years, two hundred  
12 years, won't it?

13 A. Well, hopefully.

14 Q. And there are how many out there?

15 A. How many 700s?

16 Q. How many?

17 A. Over two million.

18 Q. And so if there's a problem it's our problem and our  
19 children's problem and our grandchildren's problem and their  
20 grandchildren's problem, isn't it?

21 A. If there's a problem which we say there is not.

22 Q. What about when the SAAMI commercials stop running, what  
23 then?

24 A. When the SAAMI commercials stop running?

25 Q. Yes, about gun handling safety.

A. Well, every rifle we produce we have an owner's manual, we

1 put in a little booklet about safe gun handling.

2 Q. Well, let's just -- you didn't put one in with this one.

3 A. We had a manual there, an owner's manual.

4 Q. But you didn't even -- if I understood your testimony  
5 correctly, the SAAMI material that you relied on so heavily  
6 didn't even get packed with this rifle.

7 A. No, the booklet we're talking about was instituted in 1980  
8 but a similar book called the pocket guide, the pocket loader's  
9 guide, was put in our rifles back through the '60s which had  
10 basically the same information. We have information in the  
11 owners manual about safe gun handling.

12 Q. Are you saying and telling this jury then that safe gun  
13 handling is a substitute for proper design and manufacturing of  
14 rifles?

15 A. No it isn't but it's a very important part of the supple-  
16 ment of good handling has to go along with the safety of the  
17 gun.

18 Q. Sure, but that's our part of the bargain.

19 A. That's correct.

20 Q. Isn't your part of the bargain to make it right?

21 A. Yes, exactly.

22 Q. And if you don't you've broken your bargain, haven't you?

23 A. If we do not make that right and that's a defective gun, we  
24 have broken the bargain, yes.

25 Q. And if you know about it don't you have a duty to tell us?

1 A. If we know we have a defective gun, it's our duty to tell  
2 you and go out and get it back or correct it.

3 Q. Isn't it our choice, aren't we supposed to be the ones that  
4 have a choice as to whether or not we want one of these in our  
5 house?

6 A. Exactly and you have the choice. There's many gun designs  
7 on the market that you can choose from.

8 Q. How many people do you think would choose to have one that  
9 goes off when the safety is flipped from fire to safe?

10 A. Nobody, and nobody would try to make a gun that would do  
11 that.

12 Q. If they have the knowledge out there, if Remington put the  
13 knowledge out in the field, don't you think people would have  
14 said, no thank you, I don't want a \$179 bargain in my house.

15 A. Exactly, but those guns do not FSR unless they're altered  
16 in some way out in the field.

17 Q. Altered? How about adjusted?

18 A. Misadjusted.

19 Q. How about just adjusted, can't you say those words too?

20 A. Well, adjusted improperly.

21 Q. How about just adjusted?

22 A. No, you can adjust guns, do it properly and they'll func-  
23 tion very well.

24 Q. Remington actually advertised the 700 originally as an  
25 adjustable rifle didn't it?

1 A. That's correct.

2 Q. Sent it out into the field and there are people out there  
3 with owner's booklets today telling them that it's okay to  
4 adjust these rifles, isn't that right?

5 A. Tells them how to do it, yes.

6 Q. Tells them how to get inside and adjust it, isn't that  
7 right?

8 A. Yes.

9 Q. Now don't you think that created a state of knowledge, a  
10 state of mind out there in that consumer public that is handed  
11 from person to person?

12 A. It may be. I don't know.

13 Q. Well, what about the fact that, you know, I've got a rifle  
14 of my grandfather's and do you have a rifle that's handed down  
15 to you?

16 A. No, I don't.

17 Q. What if that rifle was handed down from father to son or  
18 father to daughter and daughter on down the line with that same  
19 booklet in conjunction with it that says it's adjustable? Do  
20 you see the problem?

21 A. No, I don't see the problem. I see that if you would  
22 adjust it properly there would be no problem or if you take it  
23 to a gunsmith if you don't know what you're doing which is the  
24 reasonable thing to do if you don't know what you're doing,  
25 there will be no problem.



1 Q. What if that person reads that manual and it says it's  
2 fully adjustable?

3 A. All right.

4 Q. And they don't know -- no one's told in any of these  
5 manuals that this adjustment has anything to do with the  
6 trigger connector, right?

7 A. Well, you're going to adjust the trigger control. You  
8 assume that you're going in there and do something with those  
9 components.

10 Q. Do you think that people out there know there's a trigger  
11 connector in here?

12 A. No -- well, some of them do, some of them don't.

13 Q. I grew up with a rifle. I was in the service. I've  
14 handled firearms all my life and until I got this case I didn't  
15 have the foggiest idea there was a trigger connector in a  
16 rifle. Do you know that there are people out there like that  
17 all over this country?

18 A. There probably are.

19 Q. Doesn't it make any difference? Maybe they've got the  
20 right to choose whether they want a rifle where the trigger  
21 connector might stick intermittently and cause an FSR. Do you  
22 think that's possible?

23 A. The trigger connector does not cause an FSR if it's pro-  
24 perly manufactured and we've properly manufactured those fire  
25 controls.

1 Q. You said the company was best served by this advertising  
2 campaign, right?

3 A. Yes, the industry, the consumer.

4 Q. How about the people?

5 A. The consumers, yes, the people that have the guns.

6 Q. That's Remington's position, that the people were best  
7 served?

8 A. Yes, the more they get into the attitude that safe gun  
9 handling attitudes carried with them through hunting and target  
10 shooting, the less chance of an accident happening with that  
11 gun through owner misuse or inadvertent alterations.

12 Q. You say that there was .6% of these rifles of the two  
13 million rifles out there that Remington calculated to be defec-  
14 tive, is that correct?

15 A. No, that's not correct.

16 Q. Tell me what you meant to say.

17 A. I said .6 -- well, 6/10 of 1% of those guns we calculated  
18 from this sample that I described could either be tricked or  
19 forced into a trick condition by placing something on the  
20 connector and forcing it up. Of those 700 that we tested, 6/10  
21 of a percent of those were susceptible to either one of those  
22 two conditions.

23 Q. Sir, if the rifle is properly manufactured, the screwdriver  
24 test or the pencil test won't cause it to fail, isn't that  
25 true?

1 A. Not properly manufactured. You can manufacture around that  
2 but that's not a real problem in the field, we just don't see  
3 people sitting there putting things up into the connector,  
4 pulling the trigger at the same time and then consequently  
5 pulling the safety to the fire position and shooting the gun.

6 Q. Sure, but that's not the point, Mr. Sperling. If the  
7 trigger connector will slide up because of the manufacturing  
8 imperfections inside, then someday, someday it could be carried  
9 in such a way, it could be in a rifle rack in such a way, it  
10 could be dropped in such a way, so that you can create an FSR.

11 A. No it cannot.

12 Q. Is that the state of mind in Ilion, New York today?

13 A. That is and that will be the testimony from the stand.

14 Q. Under oath.

15 A. Under oath.

16 Q. Now when did you institute the screwdriver test?

17 A. I believe the minutes said January of 1979.

18 Q. When was this rifle manufactured?

19 A. This rifle being the Lewy rifle was manufactured in August  
20 of 1975.

21 Q. This rifle fails the screwdriver test?

22 A. I believe so.

23 Q. If that process had been instituted, this rifle would never  
24 have gone to the field?

25 A. If what process was instituted?

1 Q. The screwdriver test, Mr. Sperling, the screwdriver test.

2 A. If the screwdriver test was instituted in '75?

3 Q. Yes.

4 A. I don't believe they would have pulled the rifle out  
5 because it failed the screwdriver test. I don't know, it  
6 wasn't part of the process, it never has been. It's not now.  
7 It was a test feature to see what the trickable situation of  
8 the 700 was and it was instituted in '79.

9 Q. What would have happened if at the end of the assembly line  
10 some worker at Remington had taken this rifle off the assembly  
11 line, tricked it, screwdriver tested it, whatever you guys want  
12 to call it, and it failed? What would you have done with it?

13 A. Okay. So we're clear on it, when you say "trick it", it  
14 was done through the trick test as we define the trick test,  
15 mid position.

16 Q. I understand.

17 A. The screwdriver test, if it had failed that, I don't know  
18 what would have happened because it wasn't in the process. I  
19 don't know what they would have considered that.

20 Q. What happens today?

21 A. Nothing happens today. I don't know if it's part of the  
22 process. People will be here to testify to that. I don't  
23 know.

24 Q. Excuse me.

25 A. I'm sorry.

1 Q. You read the minute in 1979 that said institute the screw-  
2 driver test, didn't you?

3 A. But not in the process of manufacturing the rifles. This ✓  
4 was the audit they were doing on the 700.  
5

6 Q. Let me see if I've got this straight. You mean you all had  
7 not to this date instituted the screwdriver test in the manu-  
8 facturing process? ✓

9 A. Not to my understanding. What I read out of those minutes  
10 were those 700s that were coming back for service were being  
11 tested for the trick condition, mid position and so forth.  
12 Somewhere midway I would assume, 1979, they also started to try  
13 to trick the gun by pushing up the connector to trap it behind  
14 the sear in those audits.

15 Q. If this gun had been audited then sometime before it was  
16 sold --

17 A. Yes.

18 Q. -- it would have failed the audit, right?

19 A. Well, it would have been audited as saying failed the trick  
20 test of the screwdriver test.

21 Q. What did you do with those rifles that failed the audit?

22 A. What did we do with them?

23 Q. Yes.

24 A. We recorded them.

25 Q. Well besides recording them, didn't you do something to  
them?

1 A. I don't believe so but other people would know that.

2 I don't know. I was not there at Ilion when they were auditing  
3 the guns.

4 Q. Are you saying that you had rifles that failed the screw-  
5 driver test that you sent back?

6 A. Could be. We felt that the screwdriver test was no indica-  
7 tion of a defective gun.

8 Q. Is that the state of mind of management in Ilion, New York  
9 today?

10 A. We'll see from the stand when they get on to testify. I  
11 cannot testify to what went on up there when they were auditing  
12 the guns.

13 Q. No, no, the failure of the screwdriver test is not an indi-  
14 cation of a defect.

15 A. Yes.

16 Q. That is the state of mind of Remington.

17 A. That is true.

18 Q. Now --

19 THE COURT: We'll recess at this time for 15 minutes.

20 (COURT IN RECESS FROM 10:48 A.M. TO 11:18 A.M.)

21 CONTINUATION OF REDIRECT EXAMINATION

22 BY MR. McDONALD:

23 Q. Mr. Sperling, you said something in cross that I'd like to  
24 follow up with you. You talked about this rifle, as I heard  
25 it, as though it were like any other product. Is that

1 Remington's thinking on that point?

2 A. I believe I said it was like all Remington products.

3 Q. Well, how would you compare the necessity of design and  
4 manufacturing with regard to a bolt action high powered rifle  
5 to a refrigerator?

6 A. Well, it's a common rule, I would say, that anything that  
7 has a capability of being dangerous like a rifle would have to  
8 be very carefully designed and carefully manufactured.

9 Q. Is that the standard of care that you believe that  
10 Remington should be held to?

11 A. Yes, I do.

12 Q. A very careful standard in the design and manufacturing of  
13 its rifles, is that correct?

14 A. Of any of its products, yes.

15 Q. Now, isn't it true, sir, that one of the reasons that  
16 Remington would not want to advertise or warn with regard to  
17 defects in its rifles is because it would affect sales, future  
18 sales of rifles?

19 A. Warn against defects in our rifles?

20 Q. Yes.

21 A. Why we would not want to?

22 Q. Yes.

23 A. No, I don't think anyone would not want to advertise  
24 against defects. A defect in a rifle, if you have a defective  
25 rifle out there causing injuries and it's pervasive throughout

1 your line, you won't be in business very long.

2 Q. Now, isn't it true that Remington bolt action rifles have  
3 helped sell Remington ammunition?

4 A. I guess from the standpoint of someone that's satisfied  
5 with the performance of your gun, they would assume that all  
6 your products that you manufacture are the same quality.

7 Q. The more Remington rifles you can get a person to buy, the  
8 more ammunition you can sell, right?

9 A. Well, I suppose that's one theory.

10 Q. Well, you're an educated person, sir, and you deal with  
11 marketing in Remington all the time, isn't that one of the  
12 theories upon which Remington markets rifles?

13 A. No, I believe they market rifles because they make a good  
14 rifle and they want to sell the product.

15 Q. Do they also want to sell ammunition?

16 A. They want to sell ammunition, we want to sell all our pro-  
17 ducts.

18 Q. And if you can get someone to buy a Remington rifle, the  
19 chances are they will continue to buy Remington ammunition.

20 A. Yes, if they're satisfied with the rifle, they probably  
21 would continue on with our ammunition.

22 Q. And if you continue to sell ammunition, you continue to  
23 make money from the sale of the ammunition.

24 A. Yes, hopefully.

25 Q. Now, isn't it true that cost is a factor, was a factor in



1 the design and manufacturing of this rifle?

2 A. I believe that's common, yes.

3 Q. And isn't it true that Remington attempted to make it as  
4 inexpensive as possible?

5 A. I don't believe that necessarily is true.

6 Q. Well, isn't it true that they tried to get it as inexpen-  
7 sive as they could to compete with the model 70 Winchester?

8 A. I really don't know if that is true or not, I mean, there's  
9 ways you can make a rifle very inexpensive that I'm not sure if  
10 they went into that route or not.

11 Q. Sir, you mentioned the fact that Remington instituted the  
12 screwdriver test in its audits. Did Remington have rifles  
13 which failed the screwdriver test and then returned to owners  
14 without warning owners that they had failed the screwdriver  
15 test?

16 A. As I said before, I really don't know what happened to  
17 those guns in that audit. There will be people here who know  
18 what happened and I would prefer them to testify about it.

19 Q. Do you know?

20 A. I do not know what became of those audit rifles.

21 Q. Isn't it true in the recall campaign, if I wrote down your  
22 testimony correctly, that there was 25,000 calls, 130,000  
23 letters sent out for a total of 155,000 contacts to Remington  
24 600 owners, am I correct?

25 A. I believe those figures sound familiar to me as I read

1 them.

2 Q. Now those were just calls and letters. That says nothing  
3 about the rifles that were actually in Remington's hands, but  
4 in any of those calls and letters did Remington warn people  
5 about the potential hazards of FSR or the potential hazards of  
6 having a bolt lock on their rifle?

7 A. Well, on the recall contacts, as I understood it, what the  
8 purpose of it was, was to get the rifle -- we're talking about  
9 the model 600 pre '75, to get the rifle either back to the  
10 factory or to a gunsmith and I imagine that was the conversa-  
11 tion that took place. I don't know of any deviation from that.  
12 There could have been but I certainly would not assume that  
13 anyone connected with Remington would tell them that the bolt  
14 lock was dangerous.

15 Q. Why?

16 A. Because it's not dangerous.

17 Q. With these 130,000 letters and 25,000 calls, did you warn  
18 any of the 600 owners about the fact that their manuals and  
19 most of their manuals do say that their rifles are adjustable,  
20 isn't that true?

21 A. I think the manuals prior to the early '70s said that.

22 Q. And that's a lot of 600s, isn't it?

23 A. Yes, it's quite a good percentage of the 600s, yes.

24 Q. Did you warn any of those people about adjusting their  
25 rifles?

1 A. I don't believe so. It would not have come up in conversa-  
2 tions.

3 Q. Now we're not talking about some unknown consumer out  
4 there, you were in contact with these people. You located  
5 them, talked to them on the telephone and wrote to them,  
6 correct?

7 A. That's correct.

8 Q. Now, why did you warn in the SAAMI commercials and bro-  
9 chures advertising whatever it is that it was, never pull the  
10 trigger while it was on safe?

11 A. Well, I think that's a good rule to follow. There's a  
12 couple of reasons. One is you never know if it is on safe.  
13 You may think it's on safe and it's not. The safe may not  
14 function properly. If you keep pulling the trigger in other  
15 conditions other than when you're attempting to fire, that's a  
16 bad habit to get into. The habit you want to get into is to  
17 keep your finger away from the trigger at all times if possible  
18 unless when you're trying to shoot something.

19 Q. Isn't it true that that is one of the elements in the FSR  
20 or in the trick test, is pulling the trigger?

21 A. That's right, when the safety is on or in the mid posi-  
22 tion.

23 Q. And you -- not you personally necessarily, Mr. Sperling --  
24 when I say "you" I'm talking about Remington. We understand  
25 that, don't we?

1 A. Right.

2 Q. Remington knew in 1980 when it stated the safety campaign  
3 that that was one of the elements that would have to occur in  
4 order for a consumer to have FSR or a trick test situation,  
5 isn't that right?

6 A. That's correct.

7 Q. But it didn't come right out and tell the consumer why,  
8 isn't that so?

9 A. Well, that covered the trick test and the FSR and a myriad  
10 of other problems you can get into if you're in the habit of  
11 pulling the trigger.

12 Q. We've seen all these other triggers over here that are  
13 blocked whenever --

14 A. Trigger block safety.

15 Q. Isn't that true?

16 A. That's correct.

17 Q. And isn't it true that the Remington, because it had the  
18 resilient mounted trigger connector, the pulling or bumping of  
19 the trigger is one of the major elements of setting up the  
20 problem?

21 A. The bumping of the trigger?

22 Q. Yes sir. What if you get a limb in it, what if any number  
23 of ways? There are too many, two million of them out there.  
24 Can't you imagine some way that could happen?

25 A. I can imagine many ways in which a trigger can be stuck

1 back and that will happen whether it's a trigger block, a sear  
2 block or if it's a firing pin block safety.

3 Q. Now you say that the safety should never be relied on, is  
4 that correct?

5 A. That's correct. That's a good safe gun handling practice.

6 Q. Is it Remington's position that its safeties cannot be  
7 relied upon?

8 A. No, it's not in that context. It's the hunter should not,  
9 to the exclusion of doing good gun handling procedures, rely on  
10 a mechanical device.

11 Q. Is it Remington's position that a consumer can rely upon  
12 Remington's safeties?

13 A. No, we don't want them to rely on the safety, we want them  
14 to use the safety as a supplement to good gun handling prac-  
15 tices.

16 Q. So you're saying then -- is Remington saying they just  
17 don't know one way or the other from time to time?

18 A. No, it's saying that we make good safeties, they will work  
19 if properly handled, but that does not mean that a safety is  
20 the substitute for good gun handling practices. In all times  
21 when you have a dangerous instrumentality like a gun, you have  
22 to be consciously aware and know what you're doing and be sure  
23 you're using good gun handling practices. A safety does not  
24 allow you to not think of those things.

25 Q. I take it then that you're saying that a consumer cannot

1 rely upon the safety.

2 A. That's the message we get out to them, don't rely on your  
3 safety.

4 Q. Do you get out to them the reason that they can't rely on  
5 the safety is because it is designed or manufactured defec-  
6 tively?

7 A. No we do not say that.

8 Q. This organization, SAAMI, you're able to share information  
9 among gun manufacturers, isn't that so?

10 A. Yes, some information we share.

11 Q. So that any of the design concepts, these have been  
12 patented or developed by other rifle manufacturers, are avail-  
13 able to Remington? Would you agree with that?

14 A. Well not necessarily through SAAMI but I think through our  
15 competitive evaluations we try to keep up with what's out in  
16 the field and try to evaluate them, see if they're good fea-  
17 tures, what the problems with the features are and if we like  
18 them, try to incorporate them.

19 Q. Remington has had that capability at all times material in  
20 this case, is that correct?

21 A. That's correct.

22 Q. So that there are no surprises to Remington in terms of  
23 what design alternatives were available in the marketplace, is  
24 that --

25 A. That's true.

1 Q. Now, if I added correctly, you brought back into  
2 Remington's factory 35,117 Remington 600s, and let me tell you  
3 how I got those figures. I just wrote them down as you read  
4 them off of the minutes. Let's not try to be precise, is  
5 35,000, 40,000, 50,000 approximately correct?

6 A. I'm sorry, I missed the model that you were talking about.

7 Q. 600s.

8 A. 600s?

9 Q. Yes.

10 A. I'd really have to look at the minute. I can't remember  
11 what I read now.

12 Q. Well, let me ask you this, did you get them all back in?

13 A. All of the 600s, no, we did not.

14 Q. So they're still out there, is that right?

15 A. Yes, the majority of them did not come back in in response  
16 to the recall.

17 Q. Now, when you brought them back in you essentially turned  
18 them into the Lewy rifle, isn't that correct?

19 A. Into the Lewy rifle?

20 Q. Yes, put a 700 fire control in them with a bolt lock and  
21 left the bolt lock on, isn't that true?

22 A. Yes, what we did was we put a 700 type trigger into the  
23 model 600s that were returned for the recall.

24 Q. And then you sent them right back out, isn't that so?

25 A. That's correct.

1 Q. Now you hired a firm called Hill and Nolton, is that  
2 correct?

3 A. That's right.

4 Q. How much money did you pay for this advertising campaign  
5 that paid these people to give you this advice with regard to  
6 this gun handling program?

7 A. I don't know.

8 Q. Could you have used the same money and the same procedures  
9 to warn people of FSRs and trick conditions?

10 A. We could have used the money in various ways and we used it  
11 to warn them against the condition we were worried about since  
12 the publicity given to the Coats case and that was the trick  
13 situation and how you handle your bolt action rifle.

14 Q. Now, do you know how much money you paid these people?

15 A. No, I do not.

16 Q. Was it a substantial sum?

17 A. I really couldn't even quantify it, I just don't know how  
18 much it is.

19 Q. How much time and effort did Remington put into that promo-  
20 tion?

21 A. The promotion of the advertising campaign itself?

22 Q. Yes.

23 A. I really don't know. Various departments put in time,  
24 public relations put in time getting magazine space, but I  
25 couldn't quantify it.



1 Q. Isn't it true that all of these advertisements completely  
2 ignored the FSR condition? It doesn't say anything about it.

3 A. It doesn't specify all the problems, it doesn't specify any  
4 problem. It gives you good gun handling practices that if  
5 followed even an FSR would not cause injury.

6 Q. Now sir, yesterday at the end of the day if I remember  
7 correctly, you testified that Remington knew about the 600  
8 problem in 1975, am I correct?

9 A. We knew about the possibility of a high percentage of model  
10 600s that could be tricked in the field in 1975.

11 Q. And you did nothing to warn the public, is that correct?

12 A. That's correct.

13 Q. And the reason you did nothing to warn the public is  
14 because you felt -- when I say "you" I mean Remington --

15 A. Remington.

16 Q. -- felt that the public couldn't be trusted with that know-  
17 ledge.

18 A. No, we just didn't want to get the information of how to  
19 misuse your gun publicly known to the public because there was  
20 no indication that they were doing so.

21 Q. Why wouldn't you want to get that to the public?

22 A. As I said yesterday, the reason why is so that you wouldn't  
23 have people experimenting with their gun and trying to get it  
24 into the condition that you're warning against.

25 Q. But don't you think Remington 600 owners had a right to

1 know that?

2 A. But they didn't know it now. They weren't doing it then,  
3 why warn against something that was not happening out in the  
4 field and setting up a condition where people would now know  
5 about it?

6 Q. But it did happen, didn't it?

7 A. It did happen, yes, that one time in Texas the fellow said  
8 he was playing with his gun and that's what happened, yes.

9 Q. How do you know it hadn't been happening between '75 and  
10 '78?

11 A. We had no complaint about it.

12 Q. Well, do you have records to that effect?

13 A. Well, I remember. I was attending Product Safety  
14 Subcommittee meetings. I was there watching the lawsuits come  
15 in. I was there when all this was happening.

16 Q. Are the records available where someone can go back and  
17 check and see if your statement's accurate?

18 A. Of the complaints we have a three year record retention but  
19 on the lawsuits we have a six year from the date of completion  
20 of the case.

21 Q. Isn't it true that all of the records that would cover this  
22 timeframe are now destroyed?

23 A. All of the complaint records probably would be.

24 Q. And therefore we can take Remington's word on this subject,  
25 is that correct?

1 A. Yes, under oath.

2 Q. And there's no way to check on that word, is there?

3 A. I can't think of any now.

4 Q. Now, you didn't in fact, or whenever the Coats case came  
5 along there was a situation which finally brought this on, is  
6 that correct?

7 A. 1978, yes.

8 Q. By the way, Mr. Headley was using the 600 rifle in the  
9 cross examination of Mr. Butters. Is that the Coats rifle?

10 A. That is the Coats rifle, yes.

11 Q. And you all brought it into this courtroom, is that  
12 correct?

13 A. Yes, we did.

14 Q. And you all listed it on your exhibit list, is that  
15 correct?

16 A. I believe we did, yes.

17 Q. Now you said yesterday that Mr. Coats, that the reason that  
18 the Coats case was settled, and I want to make sure if I under-  
19 stand this correctly, is because Mr. Coats was a defense attor-  
20 ney, is that right?

21 A. Well, he was a defense attorney, yes.

22 Q. And he was shot in the presence of the judge and a bunch of  
23 other lawyers, is that right?

24 A. I think it was a group of other judges.

25 Q. And because they had a flamboyant plaintiff's lawyer, is

1 that right?

2 A. Well, these are all facts, yes.

3 Q. And were those the reasons that you settled that case?

4 A. I believe you're talking about the reasons we were talking  
5 about on publicity that was the reason we were recalling the  
6 gun, the publicity of the case. There was a lot of reasons why  
7 we settled the case. You have to take in a lot of considera-  
8 tions.

9 Q. Is one of them the fact of the potentiality of punitive  
10 damages?

11 A. That's a consideration also.

12 Q. Isn't it in fact true that you wrote to -- and I'm referr-  
13 ing to Exhibit M-7, to Mr. R. R. Ingram on November 6th --

14 MR. HEADLEY: Mr. McDonald, wait just a second till we  
15 can find our copy of it please. Go ahead. Thank you.

16 Q. Isn't it in fact true that November 6th 1978 you wrote Mr.  
17 R. R. Ingram, head of finance at E. I. Dupont, indicating the  
18 reasons why you settled the Coats case?

19 A. Yes, I did write a memo. Mr. Ingram is not head of fin-  
20 ance.

21 Q. Well, it's addressed R.R. Ingram, Finance.

22 A. Finance Department, yes.

23 Q. And did you in fact tell Mr. Ingram that one of the reasons  
24 that you settled that case, and I said "you" and I am again  
25 referring to Remington, you were speaking on behalf of

1 Remington --

2 A. That's correct.

3 Q. -- was the potentiality of punitive damages in that case.

4 A. That was one of the considerations I believe. I really  
5 have to look at the context there.

6 Q. I'm referring you to page 2.

7 A. Uh-huh.

8 Q. The second paragraph, and I quote:

9           There was a substantial risk of high compensatory and  
10           punitive damages being awarded.

11 A. That's correct.

12 Q. Did you in fact settle the Coats case because the Remington  
13 600 was defective?

14 A. No, that is not true.

15 Q. Before you answer this question, give Mr. Headley time to  
16 object. I ask you sir, how much did you pay in settlement of  
17 the Coats case.

18           MR. HEADLEY: Well, Your Honor, you've already ruled  
19 that that should not be brought in --

20           THE COURT: Yes, I have.

21           MR. HEADLEY: And I'd ask you --

22           THE COURT: That's entirely immaterial, in fact I  
23 think most of this examination of this witness by both sides  
24 has been very immaterial to this lawsuit and that would be  
25 highly improper to put that fact before the jury and we're not

1 trying the Coats case here today at all and so I'm instructing  
2 the jury they will not -- telling the witness not to answer  
3 that question. The objection is sustained. Proceed.  
4

5 BY MR. McDONALD:

6 Q. Sir, were you aware that in 1973 that Remington had know-  
7 ledge of FSRs with regard to Remington 700s?

8 A. I wouldn't surprise me that we were checking for that.

9 Q. I'm going to hand you what has been marked as Exhibit H-3  
10 and ask you if that's a process record change authorization?

11 MR. HEADLEY: Would you wait a minute until we get it  
12 before you put it on the screen so we can check it.

13 MR. McDONALD: Excuse me.

14 MR. HEADLEY: What was the number?

15 MR. McDONALD: H-3.

16 MR. HEADLEY: Now we've got to find it.

17 THE COURT: This process is taking entirely too long.  
18 I want you to furnish -- they've already got a copy of it?

19 MR. McDONALD: Yes sir.

20 THE COURT: You've got a copy. It was listed as an  
21 exhibit.

22 MR. HEADLEY: Yes sir. We're trying to find it in  
23 this box.

24 THE COURT: Like I say, that takes too long to make  
25 the jury sit here and wait while you're trying to find some-  
thing that you already have. Let's -- during the noon hour Mr.

1 McDonald if you're going to continue this examination, list all  
2 the exhibits which you propose to use this afternoon.

3 MR. McDONALD: Yes sir.

4 MR. HEADLEY: Then that will give us the time to do  
5 it.

6 THE COURT: Right.

7 MR. HEADLEY: We now have it. Go ahead.

8 MR. McDONALD: Thank you.

9 BY MR. McDONALD:

10 Q. The reason I bring this to your attention, Mr. Sperling is  
11 it's my understanding from your testimony yesterday that you  
12 say that Remington had no knowledge of FSRs in Remington 700s  
13 before 1975.

14 A. I don't believe I ever said that.

15 Q. All right. Is this a business record of Remington?

16 A. Yes, it is.

17 MR. McDONALD: I'd offer into evidence H-3.

18 MR. HEADLEY: No objection.

19 THE COURT: It will be admitted.

20 Q. I would ask you to read to the jury the description and  
21 change reason.

22 A. Description of change and reason. Add element to  
23 final inspection to check for possible connector sear  
24 interference. At least 20 in 1972 and four so far in  
25 1973 customer complaints including one personal injury

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are attributed to this interference.

Q. And what rifle does that apply to?

A. Model 700.

Q. And when is it dated?

A. Initiation date is February 2nd 1973.

Q. Then Remington had actual knowledge in February of 1973, of this condition, isn't that so?

A. They had knowledge that there were complaints being made, that there were a certain number that were supposedly attributable to this condition.

Q. And those complaints came from the field, didn't they?

A. Yes, customer complaints.

Q. And would they also involve gun examinations?

A. Are you asking was a gun examination performed on all those rifles?

Q. Yes.

A. I assume so but I have no knowledge from that paragraph that it did.

Q. You did not produce any gun examination reports from this era, did you?

A. I don't believe so.

Q. And the reason for that is they've been destroyed, isn't that so?

A. The record retention schedule, that's correct.

Q. Sir, were you ordered by this court to produce the net



1     worth of Remington?

2     A.   I believe so, yes.

3     Q.   And did you do so?

4     A.   Yes.

5     Q.   Isn't it in fact true --

6                 MR. HEADLEY:  Just a second, if you'll come on up to  
7     the bench.

8                         BENCH CONFERENCE, ON THE RECORD

9                 MR. HEADLEY:  Are you proposing to get into that?  
10    You're obviously into that subject at this time and I'm going  
11    to state for the record that we object to any testimony on that  
12    point because it is our contention that that type of damages is  
13    not a submissible element in this case and I'm assuming that's  
14    what Mr. McDonald proposes to get into at this time.

15                THE COURT:   Well, I'm going to submit it now but are  
16    you going into when it was produced and how it was produced?

17                MR. McDONALD:  Yes sir.

18                THE COURT:   That's what you're going into now, isn't  
19    it?

20                MR. McDONALD:  yes sir.

21                THE COURT:   You're not going to produce the figure  
22    into evidence by this witness?

23                MR. McDONALD:  I am, yes sir.

24                THE COURT:   Huh?

25                MR. McDONALD:  Yes sir, I think he can testify to it.

1 I want someone to testify to it under oath but I don't think  
2 they've got somebody that would do that.

3 MR. HEADLEY: I produced it in response to the court's  
4 order but --

5 MR. McDONALD: But you said this is what they provided  
6 me. I want someone under sworn testimony from Dupont to tes-  
7 tify under penalty of perjury that this is the net worth.

8 THE COURT: Well, I don't know whether he can do that  
9 or not. How many lawyers know what the net worth of the com-  
10 pany they represent is?

11 MR. McDONALD: Well, he's the one that provided the  
12 information.

13 THE COURT: Well, I don't think he has to state that  
14 he's a CPA and knows it's all correct material.

15 MR. McDONALD: No, he probably won't, I agree.

16 MR. HEADLEY: I don't think you can demand it of him.

17 MR. McDONALD: I'd like to ask. I believe that some-  
18 one from Dupont ought to be willing to swear that this is --  
19 from Remington ought to be willing to swear that this is the  
20 figure. I don't believe it is but I have nothing to substanti-  
21 ate that on and I'd like to get it on. If Mr. Headley would  
22 like to do it that would be fine with me.

23 MR. HEADLEY: Do what?

24 THE COURT: Testify under oath that this statement of  
25 the net worth --

1 MR. HEADLEY: I can only testify probably with this  
2 witness that was what was given to him.

3 THE COURT: You can go ahead and ask him about it, go  
4 ahead.

5 MR. McDONALD: All right.

6 MR. HEADLEY: Are you going to mention the amount  
7 too?

8 MR. McDONALD: Yeah.

9 MR. HEADLEY: Are you going to permit that?

10 THE COURT: Yes.

11 MR. HEADLEY: All right.

12 THE COURT: I'm going to permit it.

13 MR. HEADLEY: All right. We've made our objection,  
14 the Court understands that and it's overruled?

15 THE COURT: Yes, I'll overrule your objection.

16 MR. HEADLEY: Okay.

17 THE COURT: Go ahead.

18 AFTER BENCH CONFERENCE

19 BY MR. McDONALD:

20 Q. Now sir, isn't it true that this court ordered you to pro-  
21 duce the net worth of Remington?

22 A. Yes.

23 Q. And isn't it true that --

24 THE COURT: Let's get it straight. I didn't order Mr.  
25 Sperling to do that.

1 MR. McDONALD: Well, when I say "you", Your Honor, Mr.  
2 Sperling and I have had an understanding here that "you" is  
3 referring to Remington and I didn't mean to imply that Mr.  
4 Sperling was ordered to do it. We may find out that he did but  
5 --

6 THE COURT: Proceed.

7 BY MR. McDONALD:

8 Q. Isn't it true that the court ordered Remington to provide  
9 its net worth?

10 A. That's correct.

11 Q. And isn't it true that it refused to do so up until the  
12 middle of this trial?

13 MR. HEADLEY: Your Honor, I object to that. That's  
14 prejudicial and Your Honor knows that, that that was a situa-  
15 tion that developed during the discovery process that we  
16 refused to do it. It was not available until now at the outset  
17 or almost at the outset of the trial.

18 MR. McDONALD: Well, now wait a minute. You've made a  
19 speaking objection in front of this jury and I'd like to reply  
20 to it. Your Honor, as the Court well knows, the first informa-  
21 tion that Remington ever produced with regard to the net worth  
22 of this company was in this proceeding and then it came in here  
23 and produced 1983 figures and it wasn't until this Court made  
24 further orders that they came forward with current informa-  
25 tion.

1 MR. HEADLEY: As the Court knows, our answer to an  
2 interrogatory, it was that they would be produced at the time  
3 of trial and under court seal until such time as the court  
4 would permit them to be released for the purpose of this case.  
5

6 THE COURT: Well, I don't like to have these arguments  
7 in front of the jury but I think I'd better straighten it out.  
8 The figures that were produced first were, as Mr. McDonald  
9 stated, a net worth statement as to 1983, and it was your  
10 statement, Mr. Headley, that they told you those were the only  
11 figures they had, the latest figures they had, isn't that  
12 correct?

13 MR. HEADLEY: That's correct.

14 THE COURT: And then I made some further orders and  
15 you did come up with some figures as of what, 1985?

16 MR. HEADLEY: 1986.

17 THE COURT: 1986.

18 MR. HEADLEY: And still under seal.

19 THE COURT: Yes it is. But I have now ordered that  
20 the plaintiff can use those figures. Proceed.

21 BY MR. McDONALD:

22 Q. Mr. Sperling, are you willing to testify under oath that  
23 this is the net worth of Remington?

24 A. I'm willing to testify as to that report. I don't have any  
25 personal knowledge other than what's in that report.

Q. You're not willing to personally verify these figures, are

1 you?

2 A. I can tell the Court that I asked the finance department  
3 for a report that would indicate the net worth and that's what  
4 they produced.

5 Q. But my question is, are you willing to verify these  
6 figures?

7 A. I have no accounting background and I have no information  
8 on the financial condition of the company.

9 Q. Can you testify from this report as to what the net worth  
10 of Remington is?

11 A. If there's a blank that says net worth, I can do that.

12 Q. I'm handing you -- this has not been marked as an exhibit  
13 but can be if Mr. Headley would prefer, but I will identify it  
14 as the Remington Arms Company balance sheet, April 1986,  
15 assets, and I turn to the portion that says stockholders equity  
16 and does that express the net worth of Remington as  
17 \$161,647,000?

18 A. That's correct.

19 Q. Sir, who is the sole shareholder of this company?

20 A. Dupont Company.

21 MR. McDONALD: No further questions at this time.

22 THE COURT: Well, we'll recess for lunch.

23 MR. HEADLEY: I have no questions so maybe --

24 THE COURT: You may step down.

25 (END OF REQUESTED PROCEEDINGS)

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I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT OF THE  
RECORD OF PROCEEDINGS IN THE ABOVE ENTITLED MATTER.

  
DEANNA J. MILLER

June 23, 1986

SF-AZ-13 PERCADI/NDY. MUNCIE IN 473