

FILED

at _____ o'clock _____ M.

FEB 09 1989

NO. 87C2042

DAVID T. CRAIG

VS.

REMINGTON ARMS CO., INC. and
DEBBIE JAMES§
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§
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§
§
§FRANCES BENNETT
Clerk of District Court, Brazoria Co., Texas
IN THE DISTRICT COURT OF DEPUTY

BRAZORIA COUNTY, TEXAS

23RD JUDICIAL DISTRICT

SANCTIONS ORDER

On the 6th day of February, 1989, came on for hearing Plaintiff's motion for sanctions against Defendant Remington Arms Co., Inc. After careful consideration of the motion, the evidence presented by Plaintiff, the pleadings and exhibits on file, the prior course of discovery in this case, and the arguments and authorities provided by counsel, the Court is of the opinion that Plaintiff's motion is meritorious and should be GRANTED.

The Court finds that Remington has acted in bad faith and has abused the discovery process, in violation of Rule 215, by failing to produce documents that this Court ordered produced and that Remington's counsel agreed would be produced. Accordingly, the Court hereby orders the following:

- (1) Remington shall pay to Plaintiff's counsel Longley & Maxwell \$25,000.00 as a monetary sanction no later than 5:00 p.m., Monday, February 13, 1989.
- (2) Remington shall produce all documents ordered to be produced under previous orders of the Court and under agreements stated by Remington's counsel on the record. The deadline for compliance with this paragraph will be set by the Special Master.
- (3) Remington shall file a supplemental response to Plaintiff's first request for production of documents certifying under oath that all responsive documents have been produced in compliance with this Court's orders and the agreements of Remington's counsel. The

deadline for compliance with this paragraph will be set by the Special Master.

- (4) After Remington has complied with the preceding paragraphs (1), (2), and (3), Remington may review documents previously in the possession of Plaintiff's counsel that would be responsive to Plaintiff's request for production. This review shall be conducted on such terms as the parties may agree, or such terms as the Court or Special Master may impose.
- (5) Pursuant to Tex. R. Civ. P. 171, the Court appoints Bert Heubner as Special Master with all powers necessary to hear and make findings on any additional discovery issues that may arise. Fees and expenses for services that have been, or will be, performed by Mr. Heubner shall be promptly paid by Remington as an additional sanction.
- (6) The Court hereby imposes a discovery cut-off date of June 16, 1989, for completion of all additional discovery, if any, the parties may choose to undertake.
- (7) Any further abuse of the discovery process by Remington or any failure of Remington to comply with any order of the Court or any request by the Special Master, will result in an order striking Remington's pleadings and rendering a default judgment against Remington and the imposition of such other sanctions as the Court may find are justified.
- (8) This case is continued from its present trial setting of February 6, 1989, to a preferential setting on July 17, 1989. No vacation letter filed by any counsel will be allowed to avoid this preferential setting. Further, it is ORDERED that Joe K. Longley, Mark L. Kincaid, Joe K. Mitchell, Michael Phillips, Roy Brown, Richard Colquitt, ~~see above~~, Don Jackson, and James W. Bradford, attorneys of record, shall not accept any assignment that could result in a conflict with this preferential setting. This is intended to be an order of protection against any conflict and is based upon representations by all counsel that no such conflicts presently exist.

IT IS SO ORDERED. SIGNED this 9 day of February, 1989.

S/ Neil Caldwell
HONORABLE NEIL CALDWELL,
DISTRICT JUDGE