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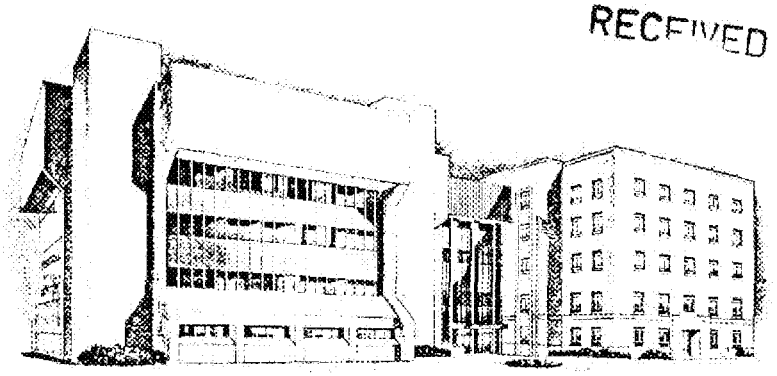

VICKIE DURFLINGER
CIVIL DOCKET CO-ORDINATOR
23rd DISTRICT COURTS
Brazoria County
Matagorda County
Wharton County

TELEPHONE 409 - 849-5711
713 - 331-6101
Ext. 1205

# BRAZORIA COUNTY

ANGLETON, TEXAS 77515

March 23, 1990

Mr. Joe K. Longley
Mr. Mark Kincaid
Longley & Maxwell
1609 Shoal Creek Blvd., Suite 100
Austin, Texas 78701

Mr. B. Lee Ware
Vinson & Elkins
1001 Fannin, Suite 3300
Houston, Texas 77220-6760

Mr. Richard Colquitt
Fulbright & Jaworski
1301 McKinney
Houston, Texas 77010

Re: Cause No. 87C2042; Craig vs. Remington

Gentlemen:

At the request of Judge Ben Martinez, I am furnishing you with copies of Orders filed on this date in the above styled case.

With best regards, I am,

Very truly yours,

Vickie Durflinger

Vickie Durflinger

NC/vrd

Enclosures

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FILED
at 2:55 o'clock P M
MAR 23 1990
FRANCES BENNETT
Clerk of District Court Brazoria Co., Texas
BY DEPUTY

CAUSE NO. 87C2042

| | | |
|---|---|---|
| DAVID T. CRAIG<br>Plaintiff | ) | IN THE DISTRICT COURT |
| VS. | ) | BRAZORIA COUNTY, TEXAS |
| REMINGTON ARMS CO., INC. AND<br>DEBBIE JAMES<br>Defendants | ) | 23RD JUDICIAL DISTRICT |

ORDER IMPOSING SANCTIONS UPON DEFENDANT
REMINGTON ARMS CO., INC.

On this day came on for consideration Plaintiff's motion for sanctions against Defendant, Remington Arms Co., Inc.. After careful consideration of the motion; the previous orders of this Court; the pleadings and exhibits on file; the prior course of discovery in this case; the conduct of counsel for Remington during the trial of this case; the findings pursuant to Rule 171 of the Special Master, 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 and it's attorney B. Lee Ware, have acted in bad faith and have abused the discovery process in violation of this Court's order of February 9, 1989 and in violation of Rules 166b and 215 of the Texas Rules of Civil Procedure. Accordingly, the Court hereby imposes the following sanctions against the Defendant, Remington Arms Co., Inc.:

(1) The pleadings of Remington Arms Co., Inc. are stricken and a default judgment is hereby rendered against Remington on all issues establishing Remington's liability to David Craig for actual damages and exemplary damages.

(2) The following facts are taken as established against Remington:

(a) The Model 700 rifle in question was defectively designed at the time it was manufactured in that it was unreasonably dangerous as designed taking into consideration the utility of the product and the risk involved in its use.

(b) Remington was negligent in the design of the Model 700 rifle in question and in the other particulars as alleged by Plaintiff;

(c) The defective design and negligence of Remington were a producing and a proximate cause of David Craig's injuries; and

(d) Remington was grossly negligent in the design of the rifle in question and in the other acts of negligence as alleged by Plaintiff sufficient to support an award of exemplary damages.

(3) Remington Arms Co., Inc. shall not be allowed indemnity, contribution or any offset based upon the comparative responsibility of any other party or person with regard to the injuries sustained by David Craig.

(4) Remington shall not be allowed to produce any evidence nor to support or oppose the issues established by paragraphs (1) and (2) of this order. The only issues that may be contested by Remington upon a trial of this matter are the amount of actual damages sustained by David Craig and the amount of exemplary damages that may be assessed against Remington;

(5) Remington is prohibited from requesting any further discovery in this cause; and

(6) All costs of Court are taxed against Remington Arms Co., Inc.

SIGNED this the 21st day of March, 1990.

JUDGE BEN MARTINEZ

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at 2:55 o'clock P M
MAR 23 1990
FRANCES BENNELL
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

NO. 87C2042

| | | |
|---|---|---|
| DAVID T. CRAIG, Plaintiff | § | IN THE 23RD JUDICIAL |
| | § | |
| VS. | § | DISTRICT COURT OF |
| | § | |
| REMINGTON ARMS CO., INC. and DEBBIE JAMES Defendants | § | BRAZORIA COUNTY, TEXAS |

DEFAULT JUDGMENT

On this 21st day of March, 1990, after having entered an order striking the pleadings of Defendant, Remington Arms Co., Inc. as a sanction imposed upon said Defendant for discovery abuse and bad faith conduct engaged in by said Defendant and it's counsel, B. Lee Ware, the Court now enters a default judgment against Defendant, Remington Arms Co., Inc. and in favor of the Plaintiff David T. Craig and it is accordingly

ORDERED, ADJUDGED AND DECREED that:

1. The liability of Remington Arms Co., Inc. to David T. Craig for his injuries is hereby established and David T. Craig have judgment against Remington Arms Co., Inc. for such damages and exemplary damages as may be established at the trial of this cause;

2. The following facts are taken as established against Remington Arms Co., Inc.:

(a) The design of the Model 700 rifle in question is unreasonably dangerous as alleged by Plaintiff and is, therefore, defective;

(b) Remington was negligent in the design of the rifle Model 700 in question and in the other particulars as alleged by Plaintiff;

(c) The defective design and negligence of Remington were a producing and a proximate cause of David Craig's injuries; and

(d) Remington was grossly negligent in the design of the rifle in question and in the other acts of negligence as alleged by Plaintiff sufficient to support an award of exemplary damages.

3. Remington Arms Co., Inc. shall not be allowed indemnity, contribution or any offset based upon the comparative responsibility of any other party or person with regard to the injuries sustained by David Craig.

4. Remington shall not be allowed to produce any evidence nor to support or oppose the issues established by paragraphs (1) and (2) of this order. The only issues that may contested by Remington upon a trial of this matter are the amount of actual damages sustained by David Craig and the amount of exemplary damages that may be assessed against Remington;

5. All costs of court in this cause are taxed against the Defendant, Remington Arms Co., Inc.

6. This order shall be interlocutory in nature and shall be merged into a final judgment after the determination of the issues that remain to be decided which are the amount of actual damages sustained by Plaintiff and the amount of exemplary damages to be assessed against Defendant, Remington Arms Co., Inc.

SIGNED this 21st day of March, 1990.

Judge Ben Martinez

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FILED
at 2:55 o'clock P M
MAR 23 1990
FRANCES BENNELL
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

CAUSE NO. 87C2042

| | | |
|---|---|---|
| DAVID T. CRAIG,<br>Plaintiff | ) | IN THE DISTRICT COURT OF |
| VS. | ) | BRAZORIA COUNTY, TEXAS |
| REMINGTON ARMS CO., INC. AND<br>DEBBIE JAMES<br>Defendants | ) | 23RD JUDICIAL DISTRICT |

ORDER OVERRULING REMINGTON'S MOTION FOR SANCTIONS

On this day came on for consideration the motion for sanctions filed by Defendant Remington Arms Co., Inc. and it appearing to the Court that said motion is without merit and should be overruled, it is accordingly

ORDERED, ADJUDGED AND DECREED that Defendants motion for sanctions be, and hereby is, in all things overruled.

SIGNED this 21st day of March, 1990.

BEN MARTINEZ
Judge Presiding

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FILED
at _____ o'clock _____ M.
MAR 2 3 1990
FRANCES BENNETT
Clerk of District Court Brazoria Co., Texas
BY _____

CAUSE NO. 87C2042

| | | |
|---|---|---|
| DAVID T. CRAIG, Plaintiff | ) | IN THE DISTRICT COURT OF |
| VS. | ) | BRAZORIA COUNTY, TEXAS |
| REMINGTON ARMS CO., INC. AND DEBBIE JAMES Defendants | ) | 23RD JUDICIAL DISTRICT |

ORDER OVERRULING MOTION FOR ENTRY OF JUDGMENT

On this day came on for consideration the Defendant, Remington Arms Co., Inc.'s motion for entry of judgment and it appearing to the Court that such motion should be overruled it is accordingly,

ORDERED, ADJUDGED AND DECREED that Defendant's motion be, and hereby is, in all things overruled.

SIGNED this 21st day of March, 1990.

BEN MARTINEZ
Judge Presiding

RECEIVED MAR 27 1990

FILED
at _____ o'clock _____ M.

CAUSE NO. 87C2042

MAR 23 1990

FRANCES BENNETT
BY _____ DEPUTY

| | | |
|---|---|---|
| DAVID T. CRAIG,<br>Plaintiff | ) | IN THE DISTRICT COURT OF |
| VS. | ) | BRAZORIA COUNTY, TEXAS |
| REMINGTON ARMS CO., INC. AND<br>DEBBIE JAMES<br>Defendants | ) | 23RD JUDICIAL DISTRICT |

ORDER GRANTING A MISTRIAL

On the 17th day of March, 1990, came on for hearing Plaintiff's Amended Motion for New Trial and other matters. Based on the grounds set forth in the amended motion for new trial, and on the Court's own motion, the Court determines that justice requires that a mistrial be granted.

It is therefore ORDERED that a mistrial in this case is hereby granted, and the case shall be set for trial in due order.

SIGNED this 21st day of March, 1990.

HONORABLE BEN MARTINEZ
District Judge

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MAR 23 1990
FRANCES BENNELL
Clerk of District Court Brazoria Co., Texas
BY _____ DEPUTY

NO. 87-C-2042

| | | |
|---|---|---|
| DAVID T. CRAIG | § | IN THE DISTRICT COURT OF |
| | § | |
| VS. | § | BRAZORIA COUNTY, TEXAS |
| | § | |
| REMINGTON ARMS CO., INC. and | § | |
| DEBBIE JAMES | § | 23RD JUDICIAL DISTRICT |

ORDER

BE IT REMEMBERED that on the 21st day of March, 1990, came on to be heard Defendant, REMINGTON ARMS CO., INC.'s Motion to Withdraw Exhibits, and the Court having examined the pleadings, is of the opinion said Motion is well taken and should be GRANTED. It is therefore,

ORDERED, ADJUDGED AND DECREED that Defendant, REMINGTON ARMS CO, INC. shall be allowed to withdraw exhibit numbers 1, 2, 2A, 3, 4, 5, 6, 7, 20, 25, 26, 27, 28, 38, 56, 57A, 58A, 131, 132, 134, 136, 190, 191, and 413 and replace the exhibits with photos of the exhibits.

SIGNED this 21st day of March, 1990.

JUDGE PRESIDING