

SUMMARY OF DEPOSITION OF ROBERT B. SPERLING
(CHAPA V. REMINGTON)
Taken May 4, 1989

Re: Diane Baker; 91-929

<u>PAGE</u>	<u>LINE</u>	<u>SUMMARY</u>
7		(<u>Examination by Mr. Chaffin</u>)
8	3-4	Has been deposed in other cases.
8	10-13	Has been a lawyer since 1961.
8	16-19	Isn't employed by Remington. Employed by the DuPont Company since 1985.
8	22-23	Handles and coordinates their litigation.
8	24-25	
9	1	Spends about 50% of his time coordinating Remington Arms' litigation.
9	3-8	Believes the time is billed to Remington but doesn't know that for a fact.
9	9-10	Gets a paycheck strictly from DuPont.
9	16-19	Not required by either company to keep an hourly division of the time he spends on either companies' activities.
10	1-6	Spends 50% of his time on Remington Arms business and 50% on DuPont business.
10	10-13	Isn't required to keep his time as to which company he spends it for.
10	14-15	In effect, he does employment activities for both companies.
10	18-25	With respect to litigation coordination, when he was an attorney for Remington Arms Co. he performed the same functions there while he was on the payroll at Remington as he now does at DuPont in relation to litigation coordination.

11 1-3 With respect to Remington litigation, even though he switched payrolls, he performs the same activities.

11 4-9 When Remington disbanded its legal department in 1985, he was offered a position at DuPont legal.

11 12-15 Believes all the functions previously performed by the Remington legal department are now performed by the DuPont legal department.

11 25
12 1-6 Doesn't know if Remington's demand for legal services is the same now as it was before the legal department was disbanded in 1985. With respect to litigation it's basically the same.

12 16-25 One other lawyer, other than deponent, works on Remington Arms business. Ronald A. Partnoy is also employed by the DuPont legal department and is senior counsel.

13 1-3 Partnoy's was general counsel at Remington.

13 16-18 Deponent has no clients other than Remington and DuPont.

13 22-25 Right now he has no way of telling at which particular time he worked for which particular company.

14 6-11 Considers himself to be a lawyer for both Remington and DuPont, even though he's not on Remington's payroll.

14 12-16 While at Remington, he was acting secretary for the product safety subcommittee on several occasions when the secretary was not there.

16 15-20 Admits that under oath in November of 1986 he denied having ever attended an operations committee meeting.

16 23-25
17 1-9 While minutes of operations committee meetings of 3/21/75, 9/19/75, and 4/21/77 show he was in attendance, he states he doesn't remember ever attending an operations committee meeting.

17 19-20 Doesn't remember ever being in an operations committee meeting.

17 21-24 Doesn't deny the accuracy of the company records which place him at those meetings.

20 5-8 Doesn't feel he has the qualifications to make any representations as to the design or manufacture of any particular firearm.

20 12-16 Assumes a known or suspected product deficiency is a deficiency known or suspected in a product.

20 17-22 Assumes that if you have a known product deficiency that affects the safety of operation of that firearm, the gun should not be sold.

21 2-8 If you're putting a gun on the market that you know is a defective product, you shouldn't sell it.

22 16-18 Doesn't feel capable to answer design questions.

22 19-25
23 1 When he testified in the past about whether or not you could load the gun with the safety in the on or off position had nothing to do with the safe design of the gun, he thinks he was testifying about the bolt lock.

23 4-5 Doesn't think he's ever testified as to design criteria of the gun.

23 6-17 Q. Did you testify in the past, sir, generally about whether or not you could load or unload the gun with the safety in the on position had nothing to do with the safe handling -- with safety?

A. Well, I don't know what the context of it was. I remember saying that in -- in a context in a specific litigation that the bolt lock had nothing to do with the particular accident involved and that you could unload a gun as safely with or without a bolt lock as you could with or without a bolt lock.

- 25 12-21 Knows E. F. Barrett and J. P. McAndrews. In 1975 Mr. McAndrews was an officer with the company. Believes he was either marketing director or executive vice-president.
- 26 12-17 Believes Mr. Barrett and Mr. Sparre were technically qualified to sit on the operations committee.
- 26 20-25 They sat on the committee at which the record states deponent was present which passed the minute that says that in order to safely handle a gun, that safety demands a design that enables the shooter to operate the gun with the safety on. Doesn't remember sitting on any operations committee, nor does he ever remember hearing statements to that effect.
- 27 7-13 Q. ...if you have remembered such a statement and you had been present when that was spoken by officers of the company, then after that you could hardly truthfully take the position that you don't need a safety that allows you to unload the gun with the safety on, do you, sir?
- 29 1-6 Q. ...in 1975, if you disagreed with the business of the operations committee when they said that safety demands a design where you can load or unload the gun with the gun in the safe position, why didn't you say something back then so we could see it on the minutes, sir?
- 29 10-14 Since he doesn't remember being at any operations meeting and doesn't remember that statement being made, it's hard for him to say why he doesn't object.
- 29 15-20 If he were at a meeting and somebody said something he disagreed with and thought was wrong, he would bring it up and note his disagreement.
- 30 21-25
- 31 1-2 Knows that three minutes have him listed as an attendee. After looking at the minutes produced, he doesn't recall any of the subject matter that was discussed. It doesn't refresh his recollection of being there.

31 3-4 Can't deny he was there since he is listed.

32 8-17 Q. If the minutes of the operations committee are true and correct, which no one disputes today, that safe gun handling demands a design, and that is the word, demand, demands a design that enables the shooter to operate the action with the safety on, then a gun should not be sold to the public or allowed to be in use by the public that fails that criteria that Remington itself has established that safety demands it; right?

36 8-15 Q. Let me get this clear with you, Mr. Sperling. Why you have the heading on the page with nothing under it is because your company has blanked out what's under it. The way this originally appeared was categories were listed A through E and beyond with known product deficiencies -- excuse me, known or suspected; you understand that?

38 20-25
39 1-2 Doesn't know why Remington Arms failed to produce records from 1975 and 1976 from their operations committee in response to a properly formulated RFP to the company. He wasn't involved in the production of those.

40 5-10 If one party withholds from the other crucial documents in a case that have been properly requested for over 2 years, it may deprive the party of a right to a fair trial.

40 11-17 Q. And when you ask someone under oath to give you all documents in response to a clear description of your operations committee minutes dealing with the M/700, they should turn them over to you promptly, shouldn't they?

A. As I say, I wasn't involved in this. I don't know all the --

41 4-6 Believes if the plaintiff asks for documents, the documents should be produced if they are available.

42 12-18 Q. And if someone sends you a request for production in a lawsuit and says turn over to

me the operations committee minutes dealing with the M/700 rifle, it's not very much trouble to go get them, is it?

A. I don't know. I assume if they know where they are they can get them.

42 19-21 Someone with Remington always knows where they are.

42 22-25
43 1 Q. And if somebody from Remington goes and picks and chooses the ones they want you to have and leaves out other ones that they know you need, hypothetically speaking, sir, that could be an attempt to deprive you of a trial, couldn't it?

43 4-6 A. Well, hypothetically it would deponent upon how the question was asked and what they're looking for.

43 14-20 There may be a good excuse for not turning over documents for over two years that were rightfully requested. He doesn't know. He doesn't know what the situation was.

45 20-25 Knows nothing about the operations committee other than that there was one.

46 1-2 Q. Do you know who the members of the operations committee are?

46 5 THE WITNESS: At what time frame?

46 11-12 Understands that it's the top officers, the heads of the departments of Remington.

46 13-16 The top officers and heads of the department of Remington in 1975 and in 1976 declare something to be a known product deficiency or a suspected product deficiency.

48 9-15 Mr. Barrett was the head of the research/design department at the time that statement was made.

49 18-25 The head of the design department, Mr. Barrett, was present. Mr. McAndrews became president

of Remington, but he isn't sure if it was in 1976.

- 51 1-5 The minutes are reflective of the business that was discussed at the committee meeting.
- 51 14-16 Deponent attended product safety subcommittee meetings for Remington.
- 51 17-23 At the product safety subcommittee, which is a subcommittee to the operations committee, minutes are made up after the meeting and circulated to the members.
- 56 8-12 If the conclusion at the end was that yes, it's true, it's suspected or it's known, then it would be true; but he doesn't know what was decided.
- 59 16-20 You have to change the design or change the actual product after it leaves the factory when you retrofit it.
- 60 16-19 Q. Or you may have made the decision that it might not be cost effective to do it, right? It might be cheaper just to defend the lawsuit than to recall the rifle.
- 60 23-25
61 1 Q. Well, Mr. Sperling, you can make two decisions, right? You can recall the rifle or you can defend the lawsuits if it's defective. Now, the company has that option, doesn't it?
- 61 5-8 A rational company doesn't have that option. There's only one option. If you have a defective product out there, you have to go out and get it.
- 62 24-25
63 1 He got into recalls in the legal department.
- 63 2-6 There may have been cost estimates done when there was a consideration of a recall.
- 63 9-10 If any were done, he doesn't know, but the accounting or finance department may know.

63 11-16 He was involved with recalls during his association with Remington, to the extent that he reviewed some letters that went out to the field.

64 22-23 Has been with Remington since 1970.

65 15-20 His role in Remington firearms litigation is that he would get the complaint and summons as it came in and would obtain a legal counsel, send him a summons and complaint and ask him to defend their interests in the matter.

65 23-25
66 1 He would give him some names of who he could talk to, depending on what the attorney's problem was, questions he had, etc.

66 5-12 Then, as the case got on toward trial, deponent would alert Remington management as to when the trial date was. He would be involved with the attorney in any settlement discussions and would advise management of the outcome or disposition of the case. He's involved from beginning to end.

66 13-22 Used to participate more in the discovery phase of the case. Now he would participate to the extent that what they were asking for was sort of in deponent's bailiwick. If they asked insurance questions, if they were covered by insurance deponent would handle that. If they asked for documents that were logistically where deponent was, he would try to compile those.

66 23-25
67 1 Styled himself as the litigation coordinator.

67 2-9 Would be responsible for ensuring that truthful responses were made to requests for discovery that came through Remington only to the extent that he signed a particular interrogatory answer. Used to do that when at Remington but doesn't think he has lately. Just hasn't had the time.

67 10-17 If a request for production came in, it may or may not go through his office. If they've

already been working with somebody, it might go through. It depends on the questions asked.

- 68 7-15 Is not aware of the fact that in this case, the operations committee records produced for the plaintiffs have been searched and it was found there were minutes missing for the operations committee for at least 8 different months.
- 69 9-17 If the secretary wasn't there and deponent was, they would ask him to be acting secretary. Never held that specific position. He was just the person who was there at the meeting. The secretary of the committee at that time was Tom Sharpe.
- 71 3-20 Ronald A. Partnoy was general counsel of Remington at that time and was a member of the product safety subcommittee for the whole time. There were no positions in the committee except chairman and secretary. Tom Sharpe is deceased. Mr. Partnoy still works for DuPont.
- 72 9-25
73 1-4 Gives some history of the product safety subcommittee, when it was formed, why, and what the purpose of the committee should be.
- 73 10-18 The principal purpose of the product safety subcommittee was to discuss safety or potential safety problems of the product.
- 74 5-7 Believes Ed Barrett was chairman of the committee from '75 to '78.
- 74 15-18 Is sure he attended most of the product safety subcommittee meetings, possibly all of them.
- 74 19-23 Understands that as part of the production in the Chapa case, plaintiffs asked that all minutes of the product safety subcommittee be produced.
- 74 24-25
75 1-3 There's no history of any meeting conducted from late '75 until late '78.
- 75 6-9 No meetings were conducted of the products safety committee during that time period.

75 14-20 As to why the products safety committee didn't meet for three years, he states the meetings weren't on any schedule. Doesn't know if they met every other year.

75 22-25 Q. Can you explain why there is a three year gap between '75 and 78 when no product safety subcommittee meetings were held?

76 6-14 If the chairman felt there was a topic that needed to be discussed by the committee, he would call the subcommittee together. Supposes that if there weren't any meetings for three years, what was going on from the safety standpoint of the product was that each person who was on the committee was handling it in his individual department.

77 12-21 Of the members of the operations committee, E. Hooton is still alive.

77 23-25
79 1-24 E. Sparre is deceased. Isn't sure, but believes Ed Beattie is deceased. Ed Barrett is alive and retired. Doesn't recognize E. M. Douglass. G. M. Calhoun was director of research during '74 and '75 and is deceased. H. M. Stoessal is deceased. J. G. Williams is retired and alive. Doesn't know about J. H. Sweeney. J. P. McAndrews is alive and retired. J. R. Malloy is alive and works for DuPont as director of external affairs division. He was head of Remington's finance department. Associates the name J. R. Bower with Ilion's firearms plant, but doesn't know if he's retired. Doesn't know where L. Fox is. H. K. Boyle is retired. He was plant manager at one time at Ilion, but deponent doesn't believe it was at this period of time.

79 16-20 To his knowledge, Remington hasn't done any work where they compared the average cost of defending the Model 700 alleged defect cases with the cost of recalling and correcting the weapon.

81 9-13 Believes some of Remington's staff functions were merged into DuPont other than legal.

81 18-20 To his knowledge, Remington doesn't have a separate legal department.

82 5-7 Believes Remington's accounting department was eliminated in 1985 as well.

82 8-17 Agrees the company couldn't exist without an accounting department and without a legal department. Perhaps portions of the finance department merged into the DuPont financial department.

82 21-25

83 1-4 Q. Well, was the accounting department eliminated in about the same time in 1985 that the legal department was?

A. There was about a year there before 1985 where various departments, various people were moving down to Wilmington, were retiring or going out of the company and I believe the legal department was one of the last to leave.

83 11-15 There is an employee benefits department which is also handled through DuPont now.

85 1-7 Believes DuPont has an employee safety department. Hasn't heard of Remington currently having an employee safety department separate from DuPont.

85 11-16 Believes Bobby Brown is the current president of Remington.

85 23-25

86 1-5 Originally was and still is president of Consolidated Coal Co. Mr. Brown is the president of both companies.

86 15-21 Doesn't know the status of Consolidated Coal, but Mr. Brown serves simultaneously as head of both of those entities.

87 9-14 Knows the president of Remington is somewhere in Pittsburgh. Has never been to his office.

87 24-25

88 1-6 Doesn't know if Remington Arms Co. has a CEO, but Bobby Brown is the president. Executive

vice-president is Jack Preiser located in Wilmington, Delaware.

- 88 10-15 Mr. Preiser came up through the company and deponent remembers him at Bridgeport, Connecticut where he had various positions up through the marketing department.
- 88 17-18 Thinks he also was in the finance department at one time.
- 88 19-22 Deponent and Mr. Preiser both office in Wilmington, but they're in separate buildings.
- 89 12-18 Deponent's door has nothing on it that indicates someone there works for Remington Arms. Just the files on his desk reflect that.
- 89 19-23 Remington Arms Co. has a separate board of directors but he doesn't know who the members are.
- 89 24-25
90 1-3 Wasn't aware that any expenditure of over \$500,000 by Remington Arms Co. had to be approved by the DuPont executive committee.
- 90 14-22 Knows of one employee who works for both DuPont and Remington, Ron Partnoy, senior counsel in the legal department.
- 91 2-7 Got his job after being interviewed by the head of DuPont's legal department. His seniority carried over from Remington into DuPont.
- 91 12-18 Believes it's true that all employees who moved from Remington to DuPont maintained their seniority, their position and employee benefits.
- 91 19-22 All employees benefits for Remington employees are now provided through DuPont.
- 92 4-16 Believes at one time Remington and DuPont had separate financial statements, but doesn't believe that's true today. Believes the only public statement issued by Remington would be a joint statement with DuPont.

93 9-17 Thinks the change really occurred in '80 or '81 when DuPont acquired 100% of the stock of Remington. Then in '84 and '85 there was the consolidation where the organization of Remington cut out some staff functions and relocation of the corporate headquarters of Remington was made to Wilmington, Delaware.

95 11-15 Q. When the operations committee identified product deficiencies that were known or suspected, at any time were those product deficiencies referred to the product safety subcommittee for any further study whatsoever that you can recall?

95 19-23 THE WITNESS: They may have been, but they weren't -- I can't recall them being referred to as here's a -- here's a product deficiency that's referred to us by the ... operations committee.

96 1 Deponent doesn't recall that kind of report.

104 3-8 Where a gun fires without the trigger being pulled that's in the proper condition and properly cared for, if they produce the gun, Remington should bear responsibility.

105 20-24 One of the complaints with the M/700 series was that the rifle would fire without pulling the trigger.

106 19-25 Q. And in response to those complaints in Remington's own investigation in 1975 and in 1976 the M/700 safety wherein you had to put the safety into the fire position in order to load or unload the rifle, that was declared to be either a known or suspected product deficiency, that's when that happened, isn't it, sir?

108 17-25
109 1-2 As a lawyer, deponent knows when a company has taken conflicting positions. Read the operations committee minutes today, but had not read them prior to that time.

109 12-15 Today is his first knowledge of that.

109 18-25
110 1-2 Q. ...you have to admit today that there appears to be a conflicting position in Remington's statements in '75 and '76 skipping to '79 and '80. In '75 and '76, the company declares it to be a known or suspected product deficiency that you have to load the gun with the safety off, and in 1979 and 1980, they change completely to say no, it has nothing to do with safety. Now, those are conflicting positions, aren't they?

110 9-10 States they are not conflicting positions.

110 11-18 Q. One year you declare that it's a known or suspected product defect and that safety demands that you be able to unload the gun with the rifle in the on safe position and the next year you say no, safety doesn't demand that, it has nothing to do with safety. No, those are absolutely conflicting positions in a hypothetical sense, aren't they, Mr. Sperling?

110 25
111 1-2 Understands by "you," counsel means Remington.

112 6-25
113 1 Q. Hypothetically speaking, if these notes are true and correct and if in 1975 and 1976 the Remington operations committee considered the M/700 safety wherein you had to place the rifle in the fire position to load or unload it to be a known or suspected product deficiency, then that is completely contrary to their position in 1979 and 1980, isn't it, sir?

A. No, it isn't because I don't dispute the fact that it's placed in the minutes. I dispute with you an interpretation of it as why it's placed in the minutes. Is it a debate item? Is it a conclusion? I don't know what the position of the company was there; therefore, I can't tell you when it was changed. I don't think it was changed. I have never heard anybody tell me that the bolt lock contributes to the unsafeness of a gun.

113 9-20 Denies that the official position of Remington in '75 and '76 in their operations committee

minutes was that the M/700 safety requiring the shooter to place the rifle in the fire position to load and unload was a bad design.

- 116 21-25
117 1-4 It was '72 or '73 when he first became involved with a Remington Model 700 case where it was alleged that the rifle had gone off without the trigger being pulled and had a defective design to market a rifle that required you to load it and unload it with the safety in the fire position.
- 117 8-12 At that time he was involved in all litigation concerning Remington products.
- 118 10-12 It's a complaint he's known about for 15 or 16 years.
- 118 13-17 Q. And you're telling me that in 15 or 16 years of involvement with those lawsuits that never before have you seen the minutes of the operation committee that declare that safety design to be a known product or suspected product deficiency?
- 118 20-25
119 1 A. I've never been a member of the operations committee. To my knowledge I never attended operations committee. I've never looked at the operations committee minutes. They've never been sent to me. I've never poured through them. I have never seen that to my knowledge before now.
- 119 3-5 Mr. Partnoy was his supervisor during those years.
- 119 6-14 Q. A member of the products safety subcommittee who is also a member of the operations committee is present at at least two meetings where it is declared to be a known product or a suspected product deficiency to have to load or unload the rifle to safety in the fire position. Your supervisor and you're supervising litigation over that very same thing and you never heard of it; right?

- 119 18-24 A. I have never heard of it. I'm not sure Ron Partnoy is a member of it or was a member of the operations committee. I don't know what he heard, what he understood, but he's never told me that Remington's position or his own position is that a bolt lock affects the safety of a bolt--
- 120 11-16 Isn't arguing that Partnoy was a member of the operations committee during '75 through '78. He's just saying he didn't know that.
- 120 17-25
121 1-6 Has heard the statement and allegation made by plaintiffs that it was a known or suspected product deficiency to have the Model 700 rifle where you had to load it with the safety in the fire position. Has also heard the fact that they looked into the problem. Has never heard Remington, anyone in an official capacity of Remington, or anyone from Remington say that the bolt lock poses a safety problem to the user of the gun with a bolt lock.
- 123 7-13 Q. The statement of the operations committee was, Mr. Sperling, plainly and simply that safety demands, safe gun handling demands a design that enables the shooter to operate the action with the safety on. Now, you're telling me today that you have never before heard that statement made by anybody from Remington, right?
- 123 17-20 A. I have never heard anyone make that statement that safety demands us to have that kind of safety on a gun or I've forgotten the wordage of it now.
- 124 7-17 Q. Doesn't it seem a little strange to you, Mr. Sperling, that a man who has been involved with litigation of people who claim to have been shot and some killed by the failure to have a design where you could load or unload the gun with it in the safe position, doesn't it seem a little strange that that man has never before seen the minute of the operations committee that declares that to be a known product deficiency?

A. Well, first of all I don't agree with that statement.

- 124 24-25
125 1-5 Doesn't remember being in attendance at the operations committee meeting when that statement was made. Doesn't remember the statement and doesn't remember getting minutes of them.
- 126 7-18 Q. Mr. Sperling, if you remembered being at this meeting, if you remembered being there when a statement was made by a person who would within a year or two become the president of Remington, Mr. McAndrews, and the head of research, if you remembered them adopting a position two years running that safe gun handling demands a design that enables the shooter to operate the action with the safety on, if you remembered ever hearing that statement before, then you would have given some false testimony in the past, wouldn't you, sir?
- 128 8-12 The list at the beginning of the minutes shows his name as being there but he doesn't remember being there and doesn't remember anything that went on at that meeting.
- 128 13-19 Has always taken the position that he has never heard of the minute that was adopted concerning the unsafe design of the rifle.
- 128 22-25 Hasn't changed his position. He doesn't remember the meeting and has never testified any other way.
- 129 1-4 Q. Because if you did remember this meeting all your previous testimony about it never being a safety problem would be false, wouldn't it?
- A. No. That has nothing to do with that.
- 129 5-15 Q. Mr. Sperling, if you were present at a meeting when the chief of research and the president of the company adopted minutes to declare the lack of the ability to load or unload with the gun in the safe position to be

a known product deficiency, if you knew that to be the position of the top executive and top research people at Remington, then you could not truthfully give sworn testimony that the safety on the Model 700 prior to 1982 was acceptable, could you, sir? You just couldn't truthfully do that, could you?

129 21-25
130 1-4

A. Well, I won't go through all this about not being present at the meeting. I don't know; I don't remember. However, if I was there and if someone stood up, president of the company or whatever, and made that statement, said this is Remington's position, that still wouldn't say that my own position would be any different about the bolt lock and towards the affiliation with the bolt lock to the safety issue.

130 5-16

Q. But, Mr. Sperling, you being a lawyer, sir, when people took your sworn testimony in the past under oath concerning the Model 700 series rifle since you were present at this meeting when it was declared to be a known or suspected product deficiency, you should have told them what you knew the position of the executives of the company to be, shouldn't you, sir? You should have given a full and complete disclosure.

A. I did in every -- every deposition and I just didn't remember it then. I don't remember it now.

130 17-22

Safety is the most important thing with firearms, and that includes the manufacture and design of the firearm.

131 17-25
132 1

Q. If you assume this statement to be true, if you assume that the truth is that you cannot safely manufacture and sell the Model 700 series rifle without a safety that allows the shooter to operate the action with the safety in the on position, if you assume that to be a true statement, then all Model 700 rifles that were manufactured forcing the shooter to place the safety in the fire position to load and unload were defective, weren't they?

132 12-21 Q. I'm asking you for an answer based upon the statement contained in the operations committee minutes to be true. If you assume the truth is that safety demands a design that enables the shooter to operate the gun, to load and unload it with the safety on, if safety demands that feature then the manufacture and sale of a gun without that feature amounts to the distribution of a defective product, doesn't it, sir?

132 24-25
133 1-2 THE WITNESS: If that statement is true and you put a gun out on the market that doesn't live up to that statement, then you have to say that it's in contradiction to that statement.

133 17-13 Q. How can you truthfully appear as a witness for Remington when you know that you're going to be examined as a corporate representative and asked questions about whether or not a certain feature of the rifle is safe without examining the operations committee minutes when you know these type of discussions took place?

134 15-22 The operations committee had a very high voice in the company. Doesn't know of any executive committee at Remington.

135 1-4 The operations committee is probably the highest committee at Remington.

135 5-9 It's probably the highest group of executives assembled at Remington to give their opinion, issue statements, and take positions on the products of the company.

135 10-12 Q. And in 1975 and again in 1976 the highest voice at Remington declared it to be a known or suspected product deficiency--

139 3-10 Q. If you just suspect that it's a flaw in the safety of the gun to have to put it in the fire position to load and unload the gun, if you just suspect that's a safety flaw and you can fix it for 32 cents, it doesn't make any sense not to fix it, does it?

A. It does if you determine that it's not a safety flaw.

- 139 20-25
140 1-2 Agrees that a gun that will accidentally fire when you don't pull the trigger is a danger and a big problem.
- 141 11-15 If you don't find that the gun is firing accidentally and there's no problem, you don't make corrections to a gun that you find is operating and functioning properly.
- 141 17-22 Q. But it's a known fact that the gun was firing accidentally, sir, because we find later in 1978 that they're attempting to retrofit the fire control system. Unless the gun is firing accidentally you don't replace the fire control system, do you?
- 141 25
142 1-2 Doesn't agree. Deponent doesn't know why they were even thinking about replacing the fire control system.
- 142 15-18 As a non-hunter, deponent's opinion is that he doesn't believe the bolt lock has anything to do with the accidental firing of a rifle, any model with a bolt lock, including the Model 700.
- 143 15-17 To his knowledge, no judge has ever commented upon his conduct.
- 143 18-25 Is unaware of any allegation that he participated in some way, in his capacity as a lawyer with Remington, in not personally responding to discovery.
- 144 1-8 When Mr. Partnoy was his boss back in the '70's, their offices were across the hall from each other, within walking distance, and they pretty much talked on a daily basis.
- 144 12-17 Didn't know Mr. Partnoy was present at the operations committee meetings where the known or suspected product deficiency was discussed.

145 3-12 Remembers attending quite a few product safety subcommittee meetings.

145 21-23 Remembers the product safety subcommittee minutes.

146 1-3 He remembers going to the product safety subcommittee meetings back in the '70s.

146 4-9 While it's shown that he was at the operations committee meetings where the problem of known or product safety defect was discussed, he has no recollection of that whatsoever.

146 10-22 Q. So you remember one meeting, but you don't remember the other one. Do you ever stop and count--

A. It's not like one meeting against another. It's just a whole series of meetings of the product safety committee. I can't remember every particular meeting that I attended. I remember certain ones because I took the minutes for them. Others that I didn't I don't have any independent recollection of them. I don't remember any operations committee. I don't remember any other meetings that I attended. I may have, but I just don't remember them.

146 23-24 Q. Have you ever heard of the term convenient memory?

147 1 THE WITNESS: Convenient memory? Yes.

147 15-21 Doesn't know if any documents or information exists concerning the financial considerations behind any recall or retrofit that was ever considered.

147 22-25

148 1-3 If they did exist they may be in the accounting department. Deponent doesn't know the name of anyone in that department to ask.

148 7-10 Deponent is the one who retained the law firm in the Chapa litigation. Hasn't really been involved in it since then.

148 21-25
149 1 Believes it's true that under the rules of civil procedure, in order to guarantee all parties a fair trial in the state of Texas that those documents are supposed to be furnished within 30 days.

149 2-11 Q. Now, 30 days would have been about two and a half years ago from my request. Now, can you think of any good reason why we sit here today in May of 1979 and today I get new documents describing alternate designs for the safety and alternate designs for the fire control system that are now produced over two years late? Do you know of any reason for that?

A. I have not -- I just don't -- wasn't involved in it and I don't know any reason.

149 18-25 As the coordinator of the litigation for Remington, he knows that in order to get a fair trial against his company when people like Mr. Chapa ask for records dealing with alternative design, that they should be produced according to the rules of procedure.

150 17-24 Q. All I'm saying, Mr. Sperling, isn't it very clear that when someone asks you for documents from a company dealing with alternative designs that would possibly prove one design was unsafe and you come up with the alternative design documents over two years after you were supposed to have originally turned them over, you perhaps have deprived somebody of a fair trial, right?

151 2-3 THE WITNESS: I just don't know that. I don't know what the reason is. I don't know.

151 25
152 1-5 Believes Jim Hutton was coordinating the production of documents in the Chapa case, but doesn't know who Hutton dealt with to get the documents.

152 14-19 Mr. Hutton would be the man to go to to get all designs or alternative designs for the Model 700 fire control system that have ever been made.

154 18-20 Does remember the recall of the Model 600 rifle.

154 21-25 Q. Do you agree that the Model 600 rifle was a defective rifle which needed to be recalled?
A. Defective rifle that needed to be recalled? Well, it was recalled.
Q. Do you agree it was a defective design?

155 8-13 The problem was a dimensional one which allowed the user to "trick" the gun into a situation where it could subsequently be fired when you moved the safety to the fire position.

155 19-24 The problem with the Model 600 series rifles first came to light in 1975, and the rifle was not recalled until, he believes, late 1978.

155 25
156 1-7 Denies that Remington knew they had a serious problem with the Model 600 in 1975 and failed to recall it. They knew that the trick situation could be done, having learned about that through a complaint in 1975.

156 11-16 The history of the gun was that no one had done the manipulation or complained about it and they just didn't feel there would be any problem with the gun. It was an intentional act that was something that would not normally be done by a gun user.

156 18-22 The intentional act was putting the safety lever in the mid position, pulling the trigger while it was still in the mid position, and then releasing the safety to the fire position.

157 2-7 Believes it was late 1978 when the product safety subcommittee met regarding the issue of recalling the Model 600.

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