IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
CIVIL DIVISION

NICHOLAS JOHN NIGRO, Plaintiff, v. REMINGTON ARMS COMPANY, INC., Defendant,	)	No. G.D. 82-20776

ORDER OF COURT

AND NOW, this 21st day of AUGUST, 1992, it is hereby ordered, adjudged and decreed that Plaintiff's Motion to Enforce Discovery Orders and for Sanctions is granted and the Court orders as follows:

1. Although an appeal is pending of the Court's Order dated July 10, 1992, granting judgment NOV and a new trial, the Pennsylvania Rules of Appellate Procedure provide that the trial court retains authority to enforce any order entered in the matter and retains authority to proceed further in any manner in which a nonappealable interlocutory order has been entered. Pa. R.A.P. Rules 1701, 1701(b)(2), 1701(b)(6) and 1701(c).

2. Remington Arms Company, Inc., wilfully failed to comply with Plaintiff's requests for discovery and with discovery Orders dated June 6, 1986, and May 22, 1987, by failing to produce the New Bolt Action Rifle Group (NBAR) documents and the Firearms Product and Business Teams documents.

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Ex. C

3. Remington Arms Company, Inc., wilfully failed to comply with the Court's Order dated July 10, 1992, by failure of Remington to provide discovery as ordered by the Court with reference to the sale of the Remington Model 700 rifle, its predecessors and successors to the United States Government.

4. Exhibit "E-1" to this Motion and the Orders and Opinions in Hartman v. Remington Arms Company, Inc. (90-4074-CV-C-5, U.S. Dis. Ct., W. Dist. Missouri, In Re: Remington Arms Company, Inc., 952 F.2d 1029 (Eighth Cir. 1991)) and Weigel v. Remington Arms Company, Inc. (No. 1986-2683 Cambria County, PA), establish the existence and discoverability of the NBAR documents and Firearms Product and Business Team documents to Model 700 litigation including this case.

5. Accordingly, the Court hereby orders the following sanctions against Remington Arms Company, Inc.:

(a) Pursuant to Rule 4019(c)(3) and Rule 4019(c)(5), it is hereby ordered that a Default Judgment on liability be and is entered against Remington Arms Company, Inc., for wilfull failure to comply with discovery requests and Orders, by the failure of Remington to produce the New Bolt Action Rifle Group (NBAR) documents and Firearms Product and Business Teams documents, and a trial is ordered limited to damages; and

(b) Pursuant to Rule 4019(c)(3) and Rule 4019(c)(5), it is hereby ordered that a default judgment on liability be and is entered against Remington Arms Company, Inc., for wilful failure to comply with the Court's Order dated July 10, 1992, by failure of Remington to provide discovery as ordered by the Court

with reference to the sale of the Remington Model 700 rifle, its predecessors and successors to the United States Government, and a trial is ordered limited to damages.

6. It is hereby ordered that Remington Arms Company, Inc., answer all Interrogatories and Requests for Production of Documents, provide all information and produce all documents with reference to the New Bolt Action Rifle Group (NBAR), the Firearms Product and Business Teams and all other similar documents, including the index to the documents, within 10 days of the date of this Order. The discovery ordered herein shall be produced by Remington in Pittsburgh, Pennsylvania, at the offices of Plaintiff's attorneys, Kiger Messer & Alpern, 1404 Grant Building, Pittsburgh, Pennsylvania 15219. Thereafter, the Court will entertain an application by Plaintiff concerning whether or not additional sanctions should be entered against Defendant Remington pursuant to Rule 4019(c) for wilful failure to comply with discovery Orders.

7. In addition to the reasons set forth in the Court's Order and Opinion dated July 10, 1992, and in this Order, in the event that the Judgment Notwithstanding the Verdict or the Default Judgment, or both, previously granted by this Court, are not appropriate, in the alternative, Plaintiff is granted a new trial on all issues because Remington Arms Company, Inc., wilfully failed to comply with Plaintiff's requests for discovery and with discovery Orders dated June 6, 1986, and May 22, 1987, by failing to produce the New Bolt Action Rifle Group (NBAR)

documents, the Firearms Product and Business Teams documents and other similar such documents as requested by Plaintiff's discovery requests and Orders of Court.

By the Court

Schab J.

GD82-20776
Filed: August 24, 1992, 8:56AM

CERTIFIED COPY FROM THE RECORD

Michael F. Boyle
PROTHONOTARY

BY Joyce Babyak
DEPUTY