

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

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JANTZ H. KINZER and)
JOHN W. CHERRY, Individually)
and as class representatives,))
)
Plaintiffs,)
)
vs.) No. 05-0719-CV-W-JTM
)
REMINGTON ARMS COMPANY, INC.,)
and SPORTING GOODS)
PROPERTIES, INC.,)
)
Defendants.)

VOLUME I

THE VIDEOTAPED DEPOSITION OF MERLE H. WALKER,
produced, sworn and examined on behalf of the
Plaintiffs, pursuant to Notice to Take Depositions,
between the hours of eight o'clock in the forenoon
and six o'clock in the afternoon of Wednesday,
January 26, 2011, at the law offices of Van Winkle,
Buck, Wall, Starnes & Davis, P.A., 422 South Main
Street, Hendersonville, North Carolina, before me,

STACY L. DECKER,
C.C.R. No. 858,
of
JOHN M. BOWEN & ASSOCIATES,
Shorthand Reporters,

a Certified Shorthand Reporter, in a certain cause
now pending in the United States District Court,
Western District of Oklahoma, wherein JANTZ H.
KINZER, et al., are Plaintiffs and REMINGTON ARMS
COMPANY, INC., et al., are Defendants.

APPEARANCES

For Plaintiffs:

MONSEES, MILLER, MAYER, PRESLEY & AMICK, P.C. 4717 Grand Avenue, Suite 820 Kansas City, Missouri 64112 By: Mr. Timothy W. Monsees RAMLER LAW OFFICE, P.C. 202 West Madison Avenue Belgrade, Montana 59714 By: Mr. Richard Ramler

HIGHTOWER ANGELLEY, LLP 4144 N. Central Expressway Suite 1230 Dallas, Texas 75204 By: Mr. Jeff Hightower

For the Defendants:

SWANSON, MARTIN & BELL, LLP 330 North Wabash Avenue Chicago, Illinois 60611 By: Mr. Dale G. Wills

For the Witness:

ELLIS & WINTERS 3333 North Greene Street Suite 200 Greensboro, North Carolina 27401 By: Mr. J. Donald Cowan, Jr.

Also Present:

Mr. Michael Arrison, Videographer Mr. Derrick Watkins, Remington Mrs. Kathryn Walker

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Reporter's Note: Exhibits 50-54 were retained by Mr. Wills.

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VIDEO TECHNICIAN: This is the beginning of video number one in the deposition of Mr. Merle Walker in the matter of Jantz Kinzer and John Cherry, et al, vs. Remington Arms Company, Incorporated, et al, Case No. 5:09-CV-01242.

Today's date is Wednesday, January 26, 2011, and the time on the monitor is 11:13 a.m. My name is Michael Arrison, and I'm the videographer. The court reporter is Stacy Decker.

Counsel, please introduce yourselves, after which the court reporter will swear in the witness.

MR. MONSEES: My name is Tim Monsees. I represent Mr. Kinzer and Mr. Cherry.

MR. RAMLER: My name is Rick Ramler. I also represent Mr. Kinzer and Mr. Cherry.

MR. HIGHTOWER: Jeff Hightower on behalf of plaintiffs Bledsoe, Wright, Montes, Hull, Rambo, Carroll, Stanley, and several others.

MR. MONSEES: Did you have a record you wanted to make?

MR. HIGHTOWER: Yes. Very briefly,

1 we're here today to take the deposition of Mr.
 2 Walker, today and tomorrow. We, I think I speak
 3 for the plaintiff's counsel in the room,
 4 anticipate that this would be the deposition,
 5 our opportunity to discuss these matters with
 6 Mr. Walker, and we would hope and ask that cases
 7 not yet filed or are pending we would be able to
 8 use the deposition testimony in those cases,
 9 future cases.

10 MR. WILLS: And Dale Wills on behalf of
 11 Remington.

12 MR. COWAN: I am Don Cowan. I am Mr.
 13 Walker's attorney.

14 MERLE WALKER,
 15 a witness, of lawful age, being produced, sworn
 16 and examined on behalf of the Plaintiffs,
 17 deposeth and saith:

18 DIRECT EXAMINATION

19 BY MR. MONSEES:

20 Q. Mr. Walker, my name is Tim Monsees. We just met
 21 for the first time this morning, didn't we, sir?

22 A. (Witness nods.)

23 Q. You need to say yes.

24 A. Yes.

25 Q. Okay. We're going to ask you a few questions

1 here today about Remington rifles. I'm assuming
 2 that you understand that?

3 A. Okay.

4 Q. What's your current address, Mr. Walker?

5 A. Current address is 3243 Heritage Circle,
 6 Hendersonville, North Carolina.

7 Q. Mr. Walker, we have taken other depositions in
 8 this Remington case and others where there have
 9 been references to the Walker fire control. Do
 10 you know that guy Walker?

11 A. Yeah. He is sitting here.

12 Q. Okay. So when we refer to the Walker fire
 13 control, you are Walker; is that correct?

14 A. Very good.

15 Q. Is that correct?

16 A. Right.

17 Q. When did you first invent the Walker fire
 18 control?

19 A. Probably about 1946.

20 Q. At that time were you employed by Remington
 21 Arms?

22 A. I was.

23 Q. What was your position with Remington Arms back
 24 in the 1940s, Mr. Walker?

25 A. I would have been called a rifle designer, I

1 think.

2 Q. When did you leave employment with Remington?

3 A. 1975.

4 Q. And at the time you left Remington, Mr. Walker,
 5 what was your position or title with Remington?

6 A. I was manager of the custom shop.

7 Q. And explain for me what the custom shop was.

8 A. A group of workers building target rifles and
 9 special Model 700s.

10 Q. Now, you mentioned the Model 700. And is it
 11 fair to say that the Walker fire control is in
 12 the Model 700 rifle?

13 A. Yes, it is.

14 Q. And the Walker fire control is also in several
 15 other models of Remington bolt action rifles; is
 16 that true?

17 A. That's true, although they were put there by
 18 other people.

19 Q. I understand that. When you first designed the
 20 Walker fire control, the first rifle that you
 21 understand that that would have been included in
 22 the design would have been the Model 721?

23 A. Uh-huh. Yes.

24 Q. But since that original invention in the 1940s,
 25 in 1962 that same invention, the Walker fire

1 control, went into the Model 700; is that true?

2 A. That's true.

3 Q. And although there are some variations in
 4 dimensions, would it be fair, Mr. Walker, to say
 5 that the Walker fire control has also gone into
 6 the Model 7?

7 A. Yes, I assume so.

8 Q. The Model 600?

9 A. Yes, I assume so.

10 Q. And the -- and several other bolt action rifles?

11 A. As far as I know. I wasn't there.

12 Q. I understand. You left in 1975?

13 A. Yeah.

14 Q. And let's try to confine our discussion for
 15 today to the period of time when you were there.

16 A. Very good.

17 Q. Although my understanding is that you were
 18 brought in on some consultations for a few years
 19 after you left the direct employ of Remington?

20 A. Yes, that's true.

21 Q. In fact, you were brought in on a consultation
 22 in the early 1980s when Remington was
 23 considering a new bolt action rifle; is that
 24 correct?

25 A. Yes, I believe so, but it's dim.

1 Q. Okay. At any time, Mr. Walker, while you were
 2 actually with Remington, did you speak to
 3 anybody about telling customers that there were
 4 problems with the rifle such as firing when it
 5 shouldn't?
 6 A. No.
 7 Q. Have you taken a position at any time since you
 8 left that the rifles ought to be recalled
 9 because of manufacturing problems?
 10 A. No.
 11 Q. You don't believe that?
 12 A. (Witness shakes head.)
 13 Q. Did you -- when you first invented this rifle in
 14 the 1940s, Mr. Walker, was that designed with
 15 what we would call a sear-blocking safety?
 16 A. I -- yes, I think so.
 17 Q. Okay. Can you explain for us what a
 18 sear-blocking safety is.
 19 A. It lifts the sear off the trigger and lets the
 20 trigger be free.
 21 Q. Before the rifle was released for production as
 22 the 721, was there discussion about changing the
 23 design to include a trigger-blocking safety?
 24 A. Yes, there was.
 25 Q. And you participated in that design, did you

1 not, sir?
 2 A. Yes.
 3 Q. Did that come about because of some questions
 4 that had been raised about the potential of the
 5 rifle firing when it shouldn't?
 6 A. No, I don't think so.
 7 Q. Let me show you what we've marked as Exhibit 3,
 8 Mr. Walker. And feel free to use that
 9 magnifying piece in front of you.
 10 MR. WILLS: Tim, may I have a copy?
 11 Thanks.
 12 Q. (By Mr. Monsees) Have you seen that document
 13 before, Mr. Walker?
 14 A. I don't recognize it, no.
 15 Q. The document itself reflects that it was April
 16 the 9th of 1947. Do you see that?
 17 A. Not yet.
 18 Q. Up in the upper right-hand corner.
 19 A. 4/9/47.
 20 Q. All right. And do you see on the second line,
 21 Mr. Walker, that there is a comment that the
 22 guns are not within design limits? Do you see
 23 that in the second line of that document?
 24 A. Not within design limits, right.
 25 Q. Now, is that an issue that came up before the

1 rifle was ever released to be produced? And by
 2 that I mean the Model 721.
 3 A. I do not know.
 4 Q. There is an indication that that is a problem
 5 that could be, quote, "very dangerous." Do you
 6 see that line? Right after -- the same line,
 7 Mr. Walker.
 8 A. From a safety and function point of view and the
 9 existing condition has caused the following
 10 listed malfunctions to occur in several guns
 11 that were inspected.
 12 Q. Now, this was in a pilot line inspection. Do
 13 you see that, sir? At the very top of the page
 14 just under the title.
 15 A. Daily progress report.
 16 Q. For an M/721 pilot line inspection. Do you see
 17 that?
 18 A. Right. Okay.
 19 Q. Would you agree with me, Mr. Walker, that a
 20 pilot line inspection was an inspection that
 21 took place during the testing process before the
 22 rifle would have been released to the public?
 23 A. Yes.
 24 Q. And in that process -- have you seen this
 25 document before, Mr. Walker?

1 A. I don't believe so.
 2 Q. Did Mr. Leek -- did you know Mr. Leek?
 3 A. Yes.
 4 Q. And did anybody make you aware in 1947 that they
 5 were having these kinds of problems with the
 6 rifle before the rifle was released for sale to
 7 the public?
 8 A. I don't remember.
 9 Q. As the designer of the rifle, is that something
 10 that you feel you should have been told about?
 11 A. I assume so.
 12 Q. Did you participate in a program to consider
 13 trigger-blocking safeties for the Model 721?
 14 A. Yes.
 15 Q. Do you recall how many different designs were
 16 considered back in the 1940s for a
 17 trigger-blocking safety?
 18 A. Only two that I can recall.
 19 Q. Tell us what a trigger-blocking safety is. You
 20 told us about a sear-blocking safety. Tell us
 21 how a trigger-blocking safety is different.
 22 A. A trigger-blocking safety blocks the trigger
 23 from being moved when the safety is on.
 24 Q. What are the advantages that you think exist in
 25 a trigger-blocking safety?

1 A. Advantages, it's unlikely that it will fail.
 2 Q. And when you say fail, what do you mean by that?
 3 A. The sear-blocking safety can fail when the parts
 4 are such that it -- that the safety does not
 5 lift the sear off the trigger.
 6 Q. And was there some recognition early in the
 7 process that that was a risk of the safety?
 8 A. Uh-huh.
 9 Q. The sear-blocking safety?
 10 A. Yes.
 11 Q. The effort to look at trigger blocking safeties
 12 was to fix that potential safety hazard?
 13 A. Was what?
 14 Q. Was the effort by you to look at trigger
 15 blocking safeties an effort to correct the risk
 16 associated with the sear-blocking safety?
 17 A. Yes.
 18 Q. If you have a trigger-blocking safety, Mr.
 19 Walker, does that basically guard against a
 20 situation where the trigger could be manipulated
 21 while the rifle is on safe and disengage the
 22 sear?
 23 A. Say that again.
 24 Q. Does the trigger-blocking safety prevent or
 25 guard against manipulation of the trigger while

1 the rifle is on safe in a way that would cause
 2 the trigger to become disengaged from the sear?
 3 A. Yes.
 4 Q. And was that the purpose of the three -- or the
 5 two different designs that you worked on?
 6 A. Yes.
 7 Q. Were you convinced in 1948, Mr. Walker, that the
 8 trigger-blocking safety was workable?
 9 A. Yes.
 10 Q. Did you consider it an enhancement or an upgrade
 11 in terms of safety over the original design?
 12 A. The only one that I built was the one that
 13 blocked the trigger below the pivot pin.
 14 Q. And you thought that was a safer design?
 15 A. Safer in what way?
 16 Q. Well, it prevented this manipulation of the
 17 trigger while the rifle was on safe? It kept
 18 the trigger engaged properly under the sear?
 19 A. Manipulating any action can cause problems.
 20 Q. But the trigger block would add an element of
 21 safety against that manipulation of the trigger?
 22 A. Yes.
 23 Q. Did that design, Mr. Walker, get adopted by
 24 Remington at that time?
 25 A. No.

1 Q. Why not?
 2 A. I have no idea.
 3 Q. Did anybody advise you as to whether there were
 4 any cost considerations as to why your trigger
 5 blocking design was not included in the final
 6 production?
 7 A. I don't think anyone ever actually said that.
 8 Q. Okay.
 9 A. But it was inferred.
 10 Q. Did you put a fair amount of work and study into
 11 designing the trigger-blocking safety?
 12 A. Not too much.
 13 Q. Were you convinced it would work?
 14 A. Yes.
 15 Q. And did you tell the people at Remington, your
 16 superiors at Remington, that you thought it
 17 would work?
 18 A. Yes.
 19 Q. You just don't know what happened or what caused
 20 that design not to be adopted; is that true?
 21 A. True.
 22 Q. Now, when the Model 700 was released in 1962,
 23 was there any discussion or consideration of
 24 whether or not that rifle would use a
 25 trigger-blocking safety?

1 A. No.
 2 Q. And why not then?
 3 A. Not that I can remember.
 4 Q. Did someone, Mr. Alvis or Mr. Greene -- do you
 5 remember those two gentlemen?
 6 A. Do what?
 7 Q. Do you remember Mr. Alvis or Mr. Greene?
 8 A. I remember Mr. Alvis.
 9 Q. What was his position?
 10 A. Well, he was over the research department in
 11 Ilion.
 12 Q. Do you know by whom he was employed? Was he a
 13 Remington employee, was he a DuPont employee, or
 14 do you know?
 15 A. I think he was a Remington employee but put
 16 there by DuPont.
 17 Q. Let me show you, Mr. Walker, what has been
 18 marked as Exhibit 9. Have you seen that
 19 document before?
 20 A. I don't believe so.
 21 Q. Mr. Alvis, who we were just speaking of, and
 22 there is a Mr. Greene -- and I gather you do not
 23 remember Mr. Greene?
 24 A. Not just offhand, I don't.
 25 Q. Just to summarize this, this is a letter dated

1 August the 31st of 1948 where there is a
 2 discussion about the potential liability of
 3 Remington for the safety of the Model 721. Did
 4 anybody discuss the contents or the topics of
 5 this letter with you as the designer of the
 6 rifle?
 7 A. I don't believe so.
 8 Q. Now, did you become concerned at some point, Mr.
 9 Walker, that maybe not quite the right materials
 10 were being used in your design?
 11 A. Yes.
 12 Q. And what type of concerns did you have?
 13 A. I had the feeling that the powdered metal
 14 material for the sear was wrong.
 15 Q. And why?
 16 A. Because I didn't feel it was as strong as a
 17 wrought material.
 18 Q. Powdered metal, is that just what it sounds
 19 like; they get metal in a powdered form and then
 20 use it in molds for parts?
 21 A. Yes.
 22 Q. How is that different from, say, wrought
 23 material?
 24 A. Well, wrought material is machined to shape.
 25 Q. Did you have a recommendation or a preference

1 over what types of materials you think should
 2 have been used in the sear?
 3 A. The sear was specified as a wrought material on
 4 the drawing.
 5 Q. In your original design?
 6 A. Yes.
 7 Q. And why did you think it was important, Mr.
 8 Walker, to use wrought material rather than
 9 powdered metals?
 10 A. The load on the sear and trigger is infinite at
 11 the point of release as you must realize.
 12 Q. Were you finished?
 13 A. Because the area is -- gets smaller and smaller.
 14 Q. All right. What does the soft material with
 15 powdered metal, what kind of an impact does that
 16 have on the wearing of the rifle?
 17 A. I assume that it wears faster than wrought
 18 material.
 19 Q. Did you know that they were, they meaning
 20 Remington -- did you know that Remington had
 21 authorized and moved to the use of powdered
 22 metals in the sear rather than the wrought
 23 material that you first specified?
 24 A. Yes, and I objected.
 25 Q. And to whom did you object?

1 A. Everyone.
 2 Q. Did you object, for example, to somebody who
 3 would have been head of the engineering
 4 department?
 5 A. Well, I must have, yes.
 6 Q. Do you remember any specific people you objected
 7 to, or do you just know that you made lots of
 8 objections?
 9 A. Well, I objected to Mr. Alvis, because he was
 10 the one promoting the powdered metal.
 11 Q. Did you have concerns that the powdered metal
 12 could present a situation where the rifle could
 13 occasionally fire without a trigger pull?
 14 A. Well, it's -- if the rifle cocks so that the
 15 firing pin is held in the firing position with
 16 the sear, that it couldn't be.
 17 Q. Did you think that presented a possible safety
 18 problem?
 19 A. Possible safety problem from wear, yes.
 20 Q. Would that change that was done without your
 21 knowledge partially at least explain why some
 22 rifles fire when the trigger has not been
 23 pulled?
 24 MR. WILLS: Object to the form,
 25 foundation.

1 A. I don't -- I can't answer that. I really don't
 2 know.
 3 Q. (By Mr. Monsees) Let's look at a little more
 4 specifically what your specific concerns were.
 5 You said you told everyone that you thought that
 6 the porous nature of the powdered metals was a
 7 problem?
 8 A. Yes.
 9 Q. Did they change it after you voiced those
 10 concerns?
 11 A. No. They're still using it as far as I know.
 12 Q. And at least for the time you were with the
 13 company, they were still using it?
 14 A. Yes.
 15 Q. And I'm assuming that you have been -- you have
 16 inspected new rifles since you left the employ
 17 of Remington?
 18 A. Yes.
 19 Q. And as far as you can tell, that powdered metal
 20 sear was being used as long as you have been
 21 able to tell?
 22 A. Yes.
 23 Q. And did that lead to situations where rifles
 24 could at least theoretically fire when they were
 25 not intended to do so?

1 MR. WILLIS: Object to the form,
2 foundation.
3 A. I'm not sure I agree with that. I think if the
4 rifle cocks, it can be fired without problems.
5 Q. (By Mr. Monsees) Did salt bleed-out -- is that
6 something that can be happen with the powdered
7 metals?
8 A. I don't know.
9 Q. Did you have any concern that salt bleed-out was
10 contributing to rusting of any of the internal
11 parts of the trigger and trigger connector?
12 A. I had no knowledge of that.
13 Q. All right. Let me show you what has been marked
14 as Exhibit 16, Mr. Walker. This is a memo that
15 says at the top, "Don't Say It, Write It." Do
16 you see that, sir?
17 A. Yes.
18 Q. This was a memo that you sent to Mr. Alvis; is
19 that true?
20 A. It looks like it.
21 Q. And it's dated October the 12th of -- if you
22 lift that a little bit, you'll get a better
23 magnification, Mr. Walker. It looks like that
24 was dated October the 12th of 1972.
25 A. Right. Right.

1 you have threatened to change the sear to
2 wrought material in attempt to get quick action.
3 Did I read that correctly?
4 A. Yes.
5 Q. And what did you mean when you say that you had
6 threatened to change the sear to wrought
7 material?
8 A. We have determined to change the sear to wrought
9 material to -- in an attempt to get quick
10 action. Yes. "Sears of the old material are
11 being fabricated. It is possible they are
12 working as fast as they can. This should be
13 checked again."
14 Q. You were telling Mr. Alvis -- who was the man in
15 charge over you, correct?
16 A. Yes.
17 Q. -- that you thought that the use of the powdered
18 sear was a potentially dangerous condition?
19 A. Yes.
20 Q. They did not change that as far as you know?
21 A. No.
22 Q. And when you say it was dangerous, do you mean
23 dangerous in the sense that somebody who was
24 handling the rifle or firing the rifle could be
25 unintendedly hurt?

1 Q. And read along with me if you will here. It
2 says that there is a problem on the pilot test
3 which, quote, "is probably more serious than the
4 plant realizes." Did I read that correctly?
5 A. Yeah.
6 Q. And in the next paragraph, you begin by saying,
7 "Apparently a material change was made without
8 adequate testing."
9 Did I read that correctly?
10 A. Yes.
11 Q. And is this the material change with the
12 powdered metal that you have been discussing
13 here over the last few moments?
14 A. Yes.
15 Q. You go on to reference that "failures to fire
16 are extremely dangerous as a slight lift of the
17 bolt will generally fire the rifle." Did I read
18 that correctly?
19 A. Yes.
20 Q. And were you concerned that repeated cycles and
21 wear, because of powdered metal, could result in
22 an extremely dangerous situation with the rifle
23 unintendedly firing?
24 A. Yes.
25 Q. You went on to say in the last paragraph that

1 A. Blaming the rifle for an accident, of course, is
2 not right. People cause accidents, not rifles
3 cause accidents.
4 Q. And I understand that everybody has to practice
5 good gun safety, correct?
6 A. Right.
7 Q. Did Remington actually have a role in adopting
8 and formulating the 10 commandments of gun
9 safety?
10 A. I assume they did.
11 Q. They kind of took the lead on that, didn't they?
12 A. Yeah.
13 Q. They did that on the Model 700 rather than
14 recall the Model 700 in the late 1970s; isn't
15 that true?
16 MR. WILLIS: Object to the form,
17 foundation.
18 A. I don't know.
19 Q. (By Mr. Monsees) You don't know, okay. But you
20 were certainly aware that Remington played a key
21 role in seeing that the 10 commandments of gun
22 safety were adopted?
23 MR. WILLIS: Objection, foundation.
24 A. Yes.
25 Q. (By Mr. Monsees) Let me show you now, Mr.

1 Walker, what we've marked as Exhibit 30. You
 2 tell me when you're ready, Mr. Walker, after
 3 looking at that.
 4 A. I'm ready.
 5 Q. Have you seen Exhibit 30?
 6 A. I don't believe so.
 7 Q. You can see that it's talking about the Model
 8 700. Do you see that, sir?
 9 A. Yes.
 10 Q. And it's dated up in the upper right-hand corner
 11 June 14th, 1974?
 12 A. Yes.
 13 Q. And am I interpreting, if you look at the first
 14 paragraph under sear, they're still discussing
 15 in this memorandum the same problems that you
 16 were concerned about when we talked about
 17 Exhibit 16, which was that memo that you sent to
 18 Mr. Alvis in 1972?
 19 A. Yes.
 20 Q. They still are considering that now apparently
 21 in light of some lawsuits that have been filed
 22 for people who have been injured; is that your
 23 understanding?
 24 MR. WILLS: Objection, foundation,
 25 form.

1 A. Say that again.
 2 Q. (By Mr. Monsees) They're apparently
 3 reconsidering your recommendation of using
 4 wrought materials because of lawsuits?
 5 MR. WILLS: Objection, foundation.
 6 Q. (By Mr. Monsees) Do you see that?
 7 A. I don't see that yet.
 8 Q. It's in the -- the reference I was directing you
 9 to, Mr. Walker, is in the paragraph that is
 10 subtitled 3-Position Safety.
 11 A. Yes.
 12 Q. It says, quote, "With three lawsuits pending,
 13 chargeable to poor gun handling on a 788, a 721,
 14 and a 700, we are and have been working on a
 15 3-Position Safety lever for the 700." Do you
 16 see that?
 17 A. Yeah.
 18 Q. That's in the same memo where they talk about
 19 the porosity of the sear. Do you see that, sir?
 20 A. Yeah.
 21 Q. Did anybody come back to you now two years
 22 later, in 1974, to get your input on continuing
 23 questions that had been raised about the use of
 24 powdered metal?
 25 A. I don't believe so.

1 Q. You had strong opinions about using powdered
 2 metal, did you not, sir?
 3 A. Yes. Yes.
 4 Q. You would have still even at this time -- you
 5 would have recommended up until the time you
 6 left that a safer material would have been
 7 wrought material compared to powdered material?
 8 A. Yes.
 9 MR. WILLS: Object to form, foundation.
 10 A. Yes.
 11 Q. (By Mr. Monsees) In the 1970s, Mr. Walker, just
 12 before you were leaving Remington, were you a
 13 member of what has been called the Gun
 14 Examination Committee?
 15 A. No.
 16 Q. Did you know Mr. Prosser?
 17 A. Yes.
 18 Q. Tell me what you remember about Mr. Prosser's
 19 position with Remington back in the early to
 20 mid-1970s.
 21 A. He was a process engineer.
 22 Q. And what did that mean?
 23 A. A very good process engineer.
 24 Q. Would you have considered him at the time one of
 25 Remington's best process engineers?

1 A. Yes.
 2 Q. What does a process engineer do that's different
 3 than what maybe you were doing?
 4 A. They organize the assembly and see that it
 5 occurs properly.
 6 Q. Was Remington in the early 1970s getting
 7 complaints from owners and handlers of Model
 8 700s that at times under certain conditions
 9 rifles would fire when the handler claimed he
 10 had not pulled the trigger?
 11 A. I don't recall anything like that, no.
 12 Q. Did they provide you at any time any gun
 13 examination reports -- did Mr. Prosser, for
 14 example, provide you with any gun examination
 15 reports where unintended firings were discussed?
 16 A. I just don't recall.
 17 Q. Was there an inspection of the rifles that at
 18 one time you recommended?
 19 MR. WILLS: Objection, form,
 20 foundation.
 21 A. It seems to me we had a warehouse inspection
 22 once upon a time.
 23 Q. (By Mr. Monsees) Was there an inspection that
 24 you had recommended at one time that was
 25 dispensed with that you took some -- had some

1 concerns with?
 2 A. No.
 3 Q. Did you view by the time you left the company
 4 that there was any problem with quality control
 5 as it related to the Model 700?
 6 A. Oh, there was always a problem with quality
 7 control.
 8 Q. And what problems did you note and witness
 9 during the time you were with Remington,
 10 specifically with respect to their bolt action
 11 rifles?
 12 A. Parts in the fire control which were not to
 13 drawing limits.
 14 Q. Were not to design limits, is that what you
 15 said, sir?
 16 A. Yes.
 17 Q. And when those were not within design limits,
 18 did that create the potential for rifles that
 19 would fire when the trigger had not been pulled?
 20 A. Yeah, sometimes.
 21 Q. Did you ever see any statistics, Mr. Walker,
 22 that indicated that Remington did some studies
 23 at the time the Model 600 was recalled about how
 24 often rifles might fire unintentionally?
 25 A. Wayne Leek was responsible for the 600, and he

1 failed to notify process engineering that they
 2 had a problem, which they could find easily by
 3 inspection.
 4 Q. That's one of the examples, I gather, you're
 5 talking about where quality control could have
 6 been better?
 7 A. Yes.
 8 Q. Did you believe that quality control also could
 9 have been better to identify potentially unsafe
 10 triggers with the 700?
 11 A. Sure.
 12 Q. Do you believe that Remington should tell
 13 customers about safeties that have problems?
 14 MR. WILLIS: Object to the form,
 15 foundation.
 16 A. No. I think if they were to start any kind of a
 17 recall, they would do it through the American
 18 Rifleman.
 19 Q. (By Mr. Monsees) Is that something that you
 20 have ever discussed with Remington?
 21 A. I haven't, no.
 22 Q. Is that something, based on your years of
 23 experience with this rifle, that you think for
 24 any reason should be done?
 25 A. I don't really know.

1 Q. One way or the other; is that correct?
 2 A. I don't know, because I have conflicting
 3 information.
 4 Q. Okay. You indicated earlier, Mr. Walker, that
 5 you had confidence in Mr. Prosser's
 6 examinations?
 7 A. Yes.
 8 Q. Did you know at any time before you left the
 9 company that Mr. Prosser was performing gun
 10 examinations where burrs or debris was binding
 11 the trigger connector from full engagement with
 12 the trigger?
 13 A. I never came across that, no.
 14 Q. Would that, if it happened, present a safety
 15 problem?
 16 A. Not that I know of.
 17 Q. In order for the rifle to be effectively in the
 18 on safe position, would you agree with me that
 19 the trigger connector has to be properly engaged
 20 with the sear?
 21 A. Yes.
 22 Q. Tell me what sear trigger clearance is.
 23 A. Sear trigger clearance is the clearance between
 24 the trigger and sear with the safety on.
 25 Q. Why is that --

1 A. So that the trigger can be moved and returned.
 2 Q. Why is that important?
 3 A. It's a safety feature. That clearance is
 4 necessary when the safety is on in order to have
 5 the safety operable.
 6 Q. Okay. And I don't mean to quibble with you, but
 7 why is that important in making the safety
 8 operable?
 9 A. The trigger must return under the sear when
 10 released so that the safety can then be put off
 11 without any problems.
 12 Q. During the time you were there, were there
 13 rifles that exhibited problems in getting back
 14 with -- consistently with the connector under
 15 the sear with proper clearance?
 16 MR. WILLIS: Object to the form,
 17 foundation.
 18 A. I think there were a few rifles that did not
 19 have the proper clearance.
 20 Q. (By Mr. Monsees) And that would present a real
 21 risk of the rifle firing when we don't want it
 22 to, correct?
 23 A. Right.
 24 Q. Such as, for example, when the safety is removed
 25 from the safe to the off position?

1 A. Yes.
 2 Q. Could it also happen in circumstances where the
 3 bolt is moved or manipulated?
 4 A. Not that I know of.
 5 Q. Okay. But it could certainly happen if the
 6 safety is moved to the fire position?
 7 A. Yes.
 8 Q. In other words, anytime you have some
 9 interference in -- between the connector and the
 10 trigger body, that is a potentially unsafe
 11 condition?
 12 A. Yes.
 13 Q. Did you ever discuss with Remington what they
 14 should do with rifles if they found that that
 15 condition existed?
 16 MR. WILLS: Object to the form,
 17 foundation.
 18 A. Replace the fire control.
 19 Q. (By Mr. Monsees) Is there -- were you ever
 20 given a statistic that as many as one percent of
 21 Remington Model 700s could potentially be
 22 tricked into such a condition?
 23 A. I don't think it was ever that high.
 24 Q. If it were that high, would that cause you, as
 25 the designer of the rifle, concerns?

1 A. Yes.
 2 Q. That would be as -- in terms of what you
 3 intended and wanted in your rifle, that would be
 4 enough to be a concerning number?
 5 A. You see, getting these bad rifles into the field
 6 should be extremely difficult. At the
 7 inspection, the final inspection, they should be
 8 turned right back and fixed.
 9 Q. That's where the quality control question comes
 10 in that you brought up a moment ago?
 11 A. Yes.
 12 Q. Mr. Walker, let me show you what has been marked
 13 now as Exhibit 28. Have you seen this memo
 14 before, Mr. Walker? It shows you as receiving a
 15 carbon copy of this memo at the bottom of the
 16 page.
 17 A. That's what it says, yeah.
 18 Q. MH Walker, I'm assuming that there was no one
 19 else employed in February of -- and that should
 20 be 1973, in February of 1973, MH Walker, you
 21 would have been the only MH Walker at Remington
 22 as far as you know?
 23 A. Yes.
 24 Q. This is a memo from Mr. Alvis to a Mr. Kelly?
 25 Did I read that correctly? Is it Kelly? Do you

1 see up in the far left-hand corner, Mr. Walker,
 2 right up here, I was just asking whether that
 3 appeared to be a Mr. Kelly.
 4 A. Yes.
 5 Q. Mr. Alvis we have talked about. This memo,
 6 which is -- is referencing the Model 700,
 7 correct, sir?
 8 A. Yes.
 9 Q. And you at that time were apparently requesting
 10 a change that no trigger adjustments are
 11 recommended. Did I read that correctly?
 12 A. Yes.
 13 Q. And what was your concern, Mr. Walker, as
 14 expressed in this memo?
 15 A. Too many amateurs buying rifles.
 16 Q. Well, amateurs buy rifles, don't they?
 17 A. Yeah.
 18 Q. Correct?
 19 A. (Witness nods.)
 20 Q. You don't have to show any special expertise or
 21 qualification to buy a rifle, at least you
 22 didn't back in 1970, did you?
 23 A. True.
 24 Q. And when you say there were too many amateurs,
 25 what was the danger as you saw it of trigger

1 adjustments?
 2 A. All you have to do is adjust the trigger until
 3 it's too fine, and the rifle fires when the bolt
 4 is closed.
 5 Q. And you were getting complaints at that time of
 6 that?
 7 MR. WILLS: Objection, foundation.
 8 A. Yes.
 9 Q. (By Mr. Monsees) Is that true?
 10 MR. WILLS: Foundation.
 11 A. I believe so, yes.
 12 Q. (By Mr. Monsees) Well, the memo itself
 13 indicates that the need arises for this new
 14 approach, quote, "as a result of significant
 15 increase in customer complaints." Did I read
 16 that correctly?
 17 A. Yes. Yes.
 18 Q. Later on you say the designers. And were you
 19 including your -- would you have been included
 20 as one of the designers?
 21 A. Yes.
 22 Q. And did you, quote, believe that that condition
 23 arose as a result of differences in parts as
 24 compared to earlier production with the sear
 25 being a contributor? Did I read that correctly?

1 A. Yes.
 2 Q. And did you, in fact, believe that it was the
 3 difference in parts that was contributing to the
 4 increase in complaints?
 5 A. Yes.
 6 Q. And is this getting back, again, to the powdered
 7 metal issue that you were concerned about?
 8 A. Yes.
 9 Q. Mr. Walker, I would now like to show you --
 10 MR. MONSEES: Can we go off camera and
 11 take a short break?
 12 MR. WILLS: Sure.
 13 VIDEO TECHNICIAN: Off the record at --
 14 MR. COWAN: Wait just a minute. Here
 15 is the only problem about going off camera. Mr.
 16 Walker is not on oxygen right now. The two
 17 hours has a lot to do with the oxygen. And so
 18 you can go off record, but the two hours
 19 continues to run because it affects his
 20 oxygenation.
 21 MR. MONSEES: I understand that. This
 22 will be a short break. I just have to find
 23 something.
 24 MR. COWAN: Okay.
 25 VIDEO TECHNICIAN: Off the record at

1 12:01 p.m.
 2 (A recess was taken.)
 3 VIDEO TECHNICIAN: On the record at
 4 12:02 p.m.
 5 Q. (By Mr. Monsees) Mr. Walker, we just took a
 6 very short break here, and I want to revisit
 7 very briefly with you, if you could find Exhibit
 8 9 in front of you. There you go.
 9 We talked about this a little earlier.
 10 And, again, I think your testimony at the time,
 11 Mr. Walker, was that you were not consulted
 12 directly about the content of this 1948 memo; is
 13 that true?
 14 A. I don't believe so, yes.
 15 Q. In any event, would you agree with me, as stated
 16 in the second paragraph, that the Model 721 with
 17 the Walker fire control was adopted by Remington
 18 sometime in or about 1948?
 19 A. Yes, that's true.
 20 Q. That last part of the second paragraph indicates
 21 that they'll go forward, quote, "pending receipt
 22 of further complaints from the field."
 23 Did I read that correctly, Mr. Walker?
 24 A. Complaints from the field in '48?
 25 Q. Not likely that the -- is it -- why does that

1 raise your question?
 2 A. It's a little ahead of time. I don't think the
 3 rifle was in the field long enough to get
 4 complaints.
 5 Q. All right. But you would agree with me that
 6 complaints from the field for any product,
 7 including the rifle you designed, are things
 8 that a careful manufacturer should consider?
 9 A. True.
 10 Q. In 1982, Mr. Walker, were you still officially
 11 employed by Remington?
 12 A. Do you mean I was getting a salary? No.
 13 Q. Okay. I want to show you, Mr. Walker, what
 14 we've marked as Exhibit 41 and see if you
 15 remember and recognize that letter. Do you
 16 recognize that? That's the only question I'm
 17 asking you right now, Mr. Walker, is if you
 18 recognize that?
 19 A. Yes.
 20 Q. All right. It looks like it's a letter sent
 21 from you, your signature. Is that -- if you
 22 look at the second page of Exhibit 41, Mr.
 23 Walker, is your signature on the second page of
 24 this letter?
 25 A. Yes.

1 Q. This was a letter that you wrote to Mr. Clark
 2 Workman at Remington?
 3 A. Yes.
 4 Q. And what was your understanding at that time of
 5 Mr. Workman's position or title with Remington?
 6 A. He was over R&D.
 7 Q. And you indicate in the first line that, quote,
 8 "Jim was here today."
 9 Who would Jim be? Is that Mr. Hutton?
 10 A. Must be.
 11 Q. In the first numbered paragraph, you state,
 12 quote, "Please don't bring out a new bolt action
 13 without a foolproof safety which is capable of
 14 locking the bolt. Make it at least as good as
 15 the present Model 70, better if possible."
 16 Did I read that correctly?
 17 A. Yes.
 18 Q. And when you said without a foolproof safety,
 19 what did you mean, Mr. Walker?
 20 A. I meant a trigger-blocking safety.
 21 Q. The same type of trigger-blocking safety that
 22 you had designed and worked on in 1948?
 23 A. Yes. But when you say designed and worked on,
 24 the ideas were there, but the parts were not.
 25 Q. But the -- but conceptually you're recommending

1 in 1982 the same conceptual design that you
 2 drafted and recommended in 1948?
 3 A. True.
 4 MR. MONSEES: That's all the questions
 5 I have for you, Mr. Walker. Thank you very
 6 much.
 7 MR. WILLS: Do you have any?
 8 MR. HIGHTOWER: I do.
 9 MR. WILLS: Your turn.
 10 MR. HIGHTOWER: Go off for two minutes.
 11 VIDEO TECHNICIAN: Off the record at
 12 12:08 p.m.
 13 (A recess was taken.)
 14 (Deposition Exhibit Number 47 was
 15 marked for identification.)
 16 VIDEO TECHNICIAN: On the record at
 17 12:11 p.m.
 18 DIRECT EXAMINATION
 19 BY MR. HIGHTOWER:
 20 Q. Mr. Walker, my name is Jeff Hightower. Good to
 21 meet you today, sir. I have a few questions for
 22 you following up on the questions that Mr.
 23 Monsees asked you.
 24 A. Very good.
 25 Q. All right, sir. Is it fair to say that your

1 recommendation of a trigger-blocking safety
 2 would have cost more?
 3 MR. WILLS: Object to foundation.
 4 A. Slightly.
 5 Q. (By Mr. Hightower) Slightly more. Do you
 6 believe, as you sit here today, that one of the
 7 reasons the trigger-blocking safety was not
 8 incorporated was cost?
 9 MR. WILLS: Objection, foundation.
 10 A. I assume cost was one of the reasons, yes.
 11 Q. (By Mr. Hightower) All right. I've marked and
 12 handed to you, Mr. Walker, Exhibit No. 47. This
 13 is a document I received today containing 40
 14 pages of email exchange between you and a Mr.
 15 Barber. Do you remember exchanging emails with
 16 Mr. Barber?
 17 A. Yes.
 18 Q. All right. Let's look at the first page of that
 19 exhibit, if you would. I just want to make sure
 20 that I'm reading these things correctly and then
 21 ask you to -- go ahead, sir.
 22 MRS. WALKER: No, he is not going to
 23 say anything.
 24 Q. (By Mr. Hightower) Okay. Looking at that first
 25 page, Mr. Walker, from December 2nd of this

1 year --
 2 A. Yes.
 3 Q. -- it says, "Rich, With proper inspection of the
 4 assembled rifles at assembly, this problem would
 5 have been eliminated long ago."
 6 Did I read that correctly?
 7 A. Yes.
 8 Q. Is that what you were talking about with Mr.
 9 Monsees in terms of the quality control issues?
 10 A. Yes.
 11 Q. All right. I've now flipped to Page 4 of this
 12 exhibit. On December 7th of this year -- I'm
 13 sorry, of 2010, you wrote, "Rich, the M/700 is
 14 no longer my design. I give up. Mike."
 15 A. Yeah.
 16 Q. What did you mean by that, sir?
 17 A. The sear mainly.
 18 Q. Powdered metal as opposed to the wrought metal?
 19 A. Right.
 20 Q. Do you know whether it is more expensive to make
 21 the rifle with wrought metal than it is to make
 22 it with powdered metal?
 23 A. I doubt it.
 24 Q. All right. Why then do you believe Remington
 25 insisted on powdered metal as opposed to wrought

1 metal, your recommendation?
 2 MR. WILLS: Objection, foundation.
 3 A. We had a guy who was all for it, Alvis.
 4 Q. (By Mr. Hightower) All right. Mr. Alvis has
 5 been discussed earlier today, correct?
 6 A. Uh-huh. Is he still around?
 7 MR. WILLS: Don't know. I don't know,
 8 Mr. Walker.
 9 Q. (By Mr. Hightower) I've turned to another page
 10 in this Exhibit 47 from December 15th of 2010,
 11 "Rich, maybe after the holidays. I definitely
 12 want M/700 with bad safeties recalled and
 13 repaired. Mike."
 14 Do you remember writing that?
 15 A. No, I don't.
 16 Q. All right. Do you -- would you like to see
 17 rifles with bad safeties recalled and repaired?
 18 A. Yes, I would. And I have to admit that we find
 19 very few of them.
 20 Q. All right, sir.
 21 MR. HIGHTOWER: Object to certain
 22 portions as nonresponsive.
 23 Q. (By Mr. Hightower) Just a few more questions,
 24 Mr. Walker.
 25 A. Even Rich Barber's rifle was okay. There was

1 nothing wrong with it.
 2 Q. All right.
 3 MR. HIGHTOWER: I'll object to certain
 4 portions as nonresponsive.
 5 Q. (By Mr. Hightower) Mr. Walker, you appear to be
 6 in these emails contemplating a letter, do you
 7 remember that, from December of last year?
 8 A. Contemplating a position, yes, but I decided not
 9 to do it.
 10 Q. Why did you decide not to write the letter?
 11 A. Because I got a lot of conflicting information
 12 at the time.
 13 Q. All right. Even though the gun handler has a
 14 great deal of responsibility when handling a
 15 rifle --
 16 A. 100 percent.
 17 Q. -- 100 percent, you don't think the rifle in any
 18 way should work as it's designed to work,
 19 meaning that the trigger activates the rifle?
 20 A. Say that again.
 21 Q. Sure. It was a bad question.
 22 Don't you agree, Mr. Walker, that the
 23 rifle should only fire when the trigger is
 24 pulled?
 25 A. Right.

1 Q. And so if a rifle fires, say, on safety release,
 2 that's not the way it's supposed to work, fair?
 3 A. True.
 4 Q. And if that happened and say a bullet ricocheted
 5 and hit somebody, that wouldn't be entirely the
 6 fault of the gun handler, would it, sir?
 7 MR. WILLS: Object to form.
 8 A. Yes.
 9 Q. (By Mr. Hightower) It's always the gun handler?
 10 A. Yes, 100 percent of the time.
 11 Q. All right. Just a couple more, Mr. Walker. You
 12 wrote to Rich, "Rich, I would like for Remington
 13 to do the same thing they did with the 17 cal
 14 notice in Rifleman to take 700 safeties not
 15 working to nearest Remington gunsmith for repair
 16 at Remington's expense."
 17 Do you remember writing that?
 18 A. Yes.
 19 Q. Do you still believe that?
 20 A. Yes.
 21 Q. And you talked to Mr. Monsees about the American
 22 Rifleman being the magazine or the publication
 23 that the notice should be placed in?
 24 A. Uh-huh.
 25 Q. Why do you believe that that should be the

1 publication?
 2 MR. WILLS: Object to the form,
 3 foundation.
 4 A. It hits the most shooters, number one.
 5 Q. (By Mr. Hightower) Okay. You think that
 6 publication should be used simply because it
 7 would reach the most users?
 8 A. Yes.
 9 Q. And you think that it's important that those
 10 users get that notification?
 11 A. Yes.
 12 MR. HIGHTOWER: All right. Mr. Walker,
 13 that's all I have for you today. Thank you,
 14 sir.
 15 MR. WILLS: Let's take a break while I
 16 move over there.
 17 VIDEO TECHNICIAN: Off the record at
 18 12:18 p.m.
 19 (A recess was taken.)
 20 MR. MONSEES: We have taken
 21 abbreviated examinations today in the interest
 22 of giving everybody an opportunity to inquire,
 23 but that I still do intend to come back tomorrow
 24 and question further as needed.
 25 MR. WILLS: I understand that. You and

1 I talked about this beforehand about how we
 2 wanted to make sure everybody had a chance to
 3 ask questions this first day, so I understand
 4 that.
 5 MR. HIGHTOWER: And I second that.
 6 VIDEO TECHNICIAN: On the record at
 7 12:22 p.m.
 8 CROSS-EXAMINATION
 9 BY MR. WILLS:
 10 Q. Mr. Walker, my name is Dale Wills, and I
 11 represent Remington. And we've met before today
 12 on a couple of occasions, have we not?
 13 A. Yes.
 14 Q. I have a few questions to follow up on some of
 15 the questions that these other lawyers have
 16 asked you today, so bear with me for a few more
 17 minutes. Okay?
 18 A. Very good.
 19 Q. Tell the members of the jury where you went to
 20 college, sir. Where did you go to college?
 21 A. 1930 to '34.
 22 Q. At what university?
 23 A. Iowa State.
 24 Q. And what kind of degree did you get?
 25 A. I got a mechanical engineering, engineer's.

1 Q. So you got a degree in mechanical engineering
 2 from Iowa State?
 3 A. Yes.
 4 Q. Did you take some master's work, too, in
 5 mechanical engineering?
 6 A. Yes, I did one quarter.
 7 Q. And as I understand it, and we've all seen some
 8 of your prior records, you worked at Keokuk
 9 Electric Metals for a few years right after
 10 school, right?
 11 A. Keokuk, K-e-o-k-u-k, Keokuk.
 12 Q. Okay. And then you went to work for Dow
 13 Chemical, right?
 14 A. True.
 15 Q. And how long were you at Dow?
 16 A. Six years.
 17 Q. So if I'm adding this up right, you would have
 18 started at Remington in about 1942?
 19 A. Right.
 20 Q. And you retired from there in January of 1975;
 21 is that right?
 22 A. Right.
 23 Q. And you -- as Mr. Monsees asked you earlier, you
 24 were responsible for the design of the Model
 25 721, correct?

1 A. Yes.
 2 Q. And the Model 700 that came out in 1962 --
 3 A. Yes.
 4 Q. -- true?
 5 Let's go back to some of the questions
 6 that Mr. Monsees and Mr. Hightower just asked
 7 you about powdered metal sears and what you
 8 referred to as bad safeties. Okay?
 9 A. Yes.
 10 Q. Now, I believe, if I understand your testimony,
 11 you consider that to be a question -- when those
 12 type of things, if they occur, to be a question
 13 of quality control or manufacture, correct?
 14 MR. HIGHTOWER: Objection, leading.
 15 A. One of the things.
 16 Q. (By Mr. Wills) Okay. The design itself, the
 17 design of your fire control, do you consider
 18 that to be a proper and safe design?
 19 A. Yes, I do.
 20 Q. And is that still your opinion?
 21 A. Yes.
 22 Q. Now, in order to determine whether any
 23 individual gun had an issue with powdered metal
 24 sears or bad safeties, what would you do? How
 25 would you go about determining whether any one

1 gun had a bad safety in it?
 2 A. Well, it's easy enough to find out if the rifle
 3 is faulty by cocking it, putting the safety on,
 4 pull a trigger, and you find that the trigger
 5 does not return, then it's a bad gun.
 6 Q. If you -- let's walk through that test you
 7 described. The first thing you do is cock the
 8 gun, right?
 9 A. Yes.
 10 Q. Then you put the safety on?
 11 A. Yes.
 12 Q. Then you pull the trigger?
 13 A. Yes.
 14 Q. And you see if the trigger returns once you
 15 release it?
 16 A. Yes.
 17 Q. And then to make sure, you could, in the course
 18 of such a test, push the safety to the fire
 19 position to make sure it's returned, true?
 20 A. Yes.
 21 Q. And if the gun passes those tests, what does
 22 that tell you about that gun?
 23 A. If it passes that test without firing from the
 24 safety, there is nothing wrong with it.
 25 Q. And is that your belief today?

1 A. Yes.
 2 Q. And when you say that guns could be taken to
 3 repair centers or gunsmiths to be checked on, is
 4 that what you're referring to, to be checked on
 5 for a bad safety like you described?
 6 A. Yes.
 7 MR. HIGHTOWER: Objection, leading.
 8 Q. (By Mr. Wills) Now, Mr. Monsees asked you about
 9 minimum lift or clearance, do you recall that,
 10 between the trigger and the sear?
 11 A. When the safety is on.
 12 Q. Correct. Is that sometimes referred to as sear
 13 lift, sir?
 14 A. Yes.
 15 Q. And in your estimation, did the use of -- well,
 16 strike that.
 17 Why is determining sear lift important?
 18 Why is that important?
 19 A. The safety is supposed to raise the sear to the
 20 point where the trigger can be operated and
 21 still return to battery.
 22 Q. In your design, in a Walker fire control, how
 23 does the trigger and connector get returned to
 24 full battery? What returns it?
 25 A. Spring.

1 Q. Pardon me?
 2 A. The spring.
 3 Q. And that's the way you designed it, correct?
 4 A. Yes.
 5 Q. And if there is adequate sear lift, should the
 6 trigger spring return the connector and trigger
 7 underneath the sear?
 8 A. Yes.
 9 Q. And if that is -- strike that.
 10 These examinations of guns by repair
 11 centers, would the -- would they be looking to
 12 make sure the guns had adequate sear lift?
 13 A. Yes.
 14 MR. HIGHTOWER: Objection, leading.
 15 Q. (By Mr. Wills) If the guns have adequate sear
 16 lift, do you consider them to be safe?
 17 A. Yes.
 18 Q. Mr. Walker, if someone were to bring a Model 700
 19 rifle to you and tell you they had had an
 20 accident with it and that it fired without
 21 pulling the trigger, what would you as the
 22 designer and an engineer do with that rifle when
 23 they gave it to you?
 24 A. Check it to see if that was a true condition.
 25 Q. And how would you do that?

1 A. Make sure it was unloaded first, cock the rifle,
 2 put the safety on, and pull the trigger. And if
 3 the trigger returned to its battery with no
 4 problems, then there is nothing wrong with it.
 5 Q. And what would you do with the rifle if that's
 6 what you found?
 7 A. Hand it back to the guy and say there is nothing
 8 wrong with it.
 9 Q. And would that be your opinion, that that gun
 10 was a safe gun?
 11 A. Yes.
 12 Q. Now, your design incorporates a part known as
 13 the connector; is that correct?
 14 A. Yes.
 15 Q. And that's a part or component that you designed
 16 into the gun?
 17 A. Yes.
 18 Q. Why did you -- strike that.
 19 What purpose does the connector serve
 20 on the Walker fire control?
 21 A. It relieves the necessity of a -- overtravel on
 22 the trigger beyond the release point.
 23 Q. And from a shooter's standpoint, what does that
 24 help accomplish? What does that do for a
 25 shooter of a gun?

1 A. It shortens the trigger pull.
 2 Q. And is that something that bolt action shooters
 3 want in their triggers?
 4 A. Yes.
 5 Q. And why is that?
 6 A. They like a trigger that is short movement and
 7 as light as possible.
 8 Q. Now, on a Walker fire control gun, be it a model
 9 721 or a Model 700 or other guns --
 10 A. Yes.
 11 Q. -- if the safety is engaged in the safe
 12 position, what does the safety do?
 13 A. Lifts the sear off the trigger.
 14 Q. And what does it do to the firing pin?
 15 A. When it does that, of course, it moves the
 16 firing pin to the rear.
 17 Q. And with the safety on on a Walker fire control,
 18 is there any way that the gun can fire?
 19 A. Safety on, no.
 20 Q. Now, in 1962 you were in charge -- or before
 21 1962, you were in charge of what became the
 22 Model 700 program, right --
 23 A. Yes.
 24 Q. -- when you were at Remington?
 25 And what year was the Model 700

1 introduced, do you remember?
 2 A. '62.
 3 Q. Okay. And did -- you were responsible for the
 4 design of that gun, right?
 5 A. Yes.
 6 Q. And when you -- when I say responsible for the
 7 design, we're talking about the barrel
 8 configuration, the stock, and the fire control,
 9 true?
 10 A. And -- yes, and the action.
 11 Q. And did -- was it your decision on the model
 12 700, sir, to, first of all, use the
 13 sear-blocking safety that had been used on the
 14 721?
 15 A. Yes.
 16 Q. And did you think that was an appropriate
 17 decision?
 18 A. Yes.
 19 Q. And is that still your opinion, that that is a
 20 proper decision for a gun like this?
 21 A. Yes.
 22 Q. Was it your decision to employ and use the
 23 connector in the fire control?
 24 A. Yes.
 25 Q. In -- strike that.

1 Mr. Monsees asked you questions about
 2 unintended discharges or accidental firings of
 3 Remington guns, correct?
 4 A. Yeah.
 5 Q. And you talked about, and I believe in response
 6 to one of Mr. Hightower's questions, you talked
 7 about 100 percent responsibility for the user,
 8 do you remember that?
 9 A. Yes.
 10 Q. Now, if a gun, a Model 700, were to -- well,
 11 strike that. Let me phrase it this way.
 12 If you wanted to see on a Model 700
 13 with a powdered sear whether the sear had worn
 14 improperly, what would you look for?
 15 A. I think I would look first at the bottom of the
 16 sear where the safety contacts it.
 17 Q. Okay. Where the safety cam operates on the
 18 bottom of the sear?
 19 A. Yes.
 20 Q. And what would you look for there?
 21 A. Look for wear.
 22 Q. And if it was not wearing, what would that tell
 23 you?
 24 A. That the powdered metal was standing up.
 25 Q. Have you been around powdered metal technology

1 at all since you left Remington?
 2 A. No.
 3 Q. Are you familiar with a process -- a more recent
 4 process known as metal injection molding?
 5 A. No.
 6 Q. Do you know what the capabilities are from a
 7 technological standpoint at present for the
 8 manufacturing of sears, either through powdered
 9 metal technology or metal injection molding
 10 technology? Do you know what the technological
 11 capabilities of those processes are?
 12 A. Yes, and I would object to using them for sears.
 13 Q. Even through today?
 14 A. Yes.
 15 Q. But are you familiar with what the -- what they
 16 can do with those technologies at present?
 17 A. Am I familiar, no.
 18 Q. Now --
 19 A. Are those materials heat treatable?
 20 Q. That's a good question. I'm not sure whether
 21 they are or not. But -- you'd have to have an
 22 engineer answer that one for you.
 23 I want to go back to Exhibit 3 that you
 24 had talked about earlier. Do you recall looking
 25 at this document? And if -- Mr. Walker, if you

1 want to use that, go ahead.
 2 This is the document from April 9th,
 3 1947, regarding Model 721 pilot line inspection;
 4 is that correct?
 5 A. Yeah.
 6 Q. Pilot line is a part of the development process
 7 of a firearm, is it not?
 8 A. Yes.
 9 Q. And it occurs before a gun is ever actually put
 10 into production, true?
 11 A. True.
 12 Q. So if we read this first sentence where it says,
 13 "There is evidence from the functioning of the
 14 above-mentioned guns that the connector, safety
 15 cam, and sear are not within design limits," do
 16 you see that sentence?
 17 A. Yes.
 18 Q. What does "not within design limits" mean to you
 19 as an engineer?
 20 A. Well, it means that the bottom of the sear, for
 21 one thing, is not as -- of the dimension it
 22 should be from the top.
 23 Q. To provide -- does this have to do with sear
 24 lift again, to making sure there is adequate
 25 sear lift?

1 A. Yes.
 2 Q. And it's important on any kind of firearm that
 3 the parts be made to be within specifications,
 4 correct?
 5 A. Right. Right.
 6 MR. HIGHTOWER: Objection, leading.
 7 Q. (By Mr. Wills) And why is that important from a
 8 design standpoint?
 9 A. Well, on triggers, of course, it can -- with
 10 parts that are not to the drawing dimensions,
 11 the limits that are set by the engineer, it is
 12 possible then to have a fire control which is
 13 inoperable or unsafe.
 14 Q. And as a designer at Remington, would you work
 15 with the process engineers to make sure that the
 16 processes manufacturing the guns would meet what
 17 you had specified as design?
 18 A. Yes.
 19 MR. HIGHTOWER: Objection, leading.
 20 Q. (By Mr. Wills) And why would you do that, sir?
 21 A. So that they would know what is necessary.
 22 Q. Now, you retired in 1975, correct?
 23 A. Yes.
 24 Q. In looking over these emails with Mr. Barber
 25 that are contained in Exhibit 47, Mr. Barber

1 refers on more than one occasion, I believe, to
 2 your -- circumstances of your resignation from
 3 Remington.
 4 A. Yeah.
 5 Q. Did you resign or did you retire?
 6 A. I retired.
 7 Q. Do you know what Mr. Barber was referring to
 8 when he said "the circumstances of your
 9 resignation"?
 10 MR. HIGHTOWER: Objection. Calls for
 11 speculation.
 12 A. He had a will to try to blame something else
 13 rather than his wife for shooting their son, and
 14 he went in every direction.
 15 Q. (By Mr. Wills) Well, did Mr. Barber -- did you
 16 ever tell Mr. Barber that you had resigned as
 17 opposed to retiring?
 18 A. No.
 19 Q. There is also reference in these emails where
 20 Mr. Barber refers to and states that in '75 or
 21 thereabouts you recommended the Model 700 be
 22 recalled.
 23 A. No.
 24 Q. Did you ever make that recommendation?
 25 A. I never made that recommendation.

1 Q. Do you know where Mr. Barber got that
 2 information?
 3 A. No.
 4 Q. These emails go back with Mr. Barber to October
 5 17th of last year, 2010. How long has Mr.
 6 Barber been sending you emails?
 7 A. I can't tell you exactly, but it's been a couple
 8 years.
 9 Q. And has he sent you materials and documents when
 10 he sends you emails? Has he sent you Remington
 11 documents when he has sent you emails?
 12 A. Only wording in emails.
 13 Q. Has he ever called you over the phone?
 14 A. Yes, I've talked to him on the phone.
 15 Q. When did he first call you on the phone, if you
 16 remember? You have to be the one. Do you
 17 remember when he first called you?
 18 A. (Witness shakes head.)
 19 Q. Did Mr. Barber ever tell you anything about the
 20 condition of his rifle or the rifle involved in
 21 the shooting accident with his son?
 22 A. He made me assume that there was something with
 23 it.
 24 Q. Did he ever tell you that experts for both sides
 25 had examined that rifle after the fact? Did he

1 tell you that?
 2 A. No.
 3 Q. Did Mr. Barber tell you that, when the experts
 4 looked at the rifle, it had a sear connector
 5 engagement of twenty-five-thousandths of an
 6 inch?
 7 A. I don't remember.
 8 Q. That would be a substantial engagement, would it
 9 not?
 10 A. Yes. Yes.
 11 MR. HIGHTOWER: Objection, leading.
 12 Q. (By Mr. Wills) Did he ever tell you whether the
 13 gun had been subjected to any test to determine
 14 whether it would fire on safety release?
 15 A. No.
 16 Q. Or whether there had ever been any trick test on
 17 that gun?
 18 A. He referred to all kinds of -- to all kinds of
 19 trick tests.
 20 Q. Okay. On his rifle?
 21 A. Yes.
 22 Q. Did he ever tell you that his rifle had failed a
 23 trick test?
 24 A. No.
 25 Q. Did he ever tell you that his rifle had failed

1 any test it was subjected to?
 2 A. No. I have wanted many times to tell him that
 3 the accident that occurred was his fault.
 4 Q. Just let me --
 5 A. But I haven't done that.
 6 Q. Well, just let me ask you questions, Mr. Walker.
 7 I want to show you Exhibit 28 again, this memo
 8 here relating to the suggestion in an owner's
 9 manual that the user not adjust the trigger. Do
 10 you remember talking about that earlier?
 11 A. Yeah.
 12 Q. And I thought -- the term you may have used, I
 13 didn't write it down, but I think was amateurs
 14 doing the work. Do you recall using the term
 15 amateurs?
 16 A. When we got to selling so many rifles, we had to
 17 sell them to people who didn't know what they
 18 were doing when they adjusted that trigger.
 19 Q. Did you believe and do you still believe that a
 20 competent gunsmith can safely adjust one of
 21 these triggers?
 22 A. Yes.
 23 Q. And the admonition here for the general user was
 24 to instruct them not to adjust it?
 25 A. Yes.

1 Q. And that's what you wanted done?
 2 A. Yes.
 3 Q. Sir, as you sit here today, based on everything
 4 you know and your experience, do you believe
 5 that the Walker fire control with the connector
 6 is a safe design?
 7 A. Yes, I do. It's just as safe as any of a half a
 8 dozen other rifles which operate essentially the
 9 same way, by retracting the firing pin for the
 10 safety.
 11 Q. There was reference in Exhibit 30 to 3-position
 12 safety on a model -- on a bolt action gun. Do
 13 you see the section on 3-Position Safety?
 14 A. I'm not sure I believe in 3-position safety.
 15 Q. Well, tell us why not.
 16 A. The rifle that I know, the Model 70 Winchester,
 17 the Enfield, the 720, the rifle that preceded
 18 the 720, the Springfield, all retract the firing
 19 pin, every one of them.
 20 Q. Okay.
 21 A. And it's difficult to have a 3-position safety
 22 and have it safe with that type of a safety.
 23 Q. Why is that?
 24 A. If you only put the safety partly on, it does
 25 not lift the sear or retract the firing pin the

1 way it should.
 2 Q. Did you -- was it your preference as a designer
 3 that safeties on bolt action rifles have two
 4 positions?
 5 A. Yes.
 6 Q. And that's what was employed on the 721 and the
 7 700, was it not?
 8 A. Yes. It's either off or on.
 9 Q. Let's go back to this -- your discussion about
 10 powdered metal sears and bad rifles that could
 11 come out of the production process. Okay?
 12 Let's talk about that for a minute.
 13 How many such rifles have you
 14 personally seen in your lifetime? How many
 15 rifles with problems with powdered metal sears
 16 that had bad safeties as you described them have
 17 you seen?
 18 A. I haven't seen any, believe it or not.
 19 Q. And as to this condition existing -- well,
 20 strike that.
 21 If you received a rifle from the field
 22 that was involved in an accident, and you
 23 examined it and it had twenty-one-thousandths
 24 inch of engagement, eighteen-thousandths of an
 25 inch of sear lift, a five-pound trigger pull,

1 and passed a fire on safety release test, what
 2 would that tell you about the condition of that
 3 rifle?
 4 MR. HIGHTOWER: Objection, leading.
 5 A. Nothing wrong with it.
 6 Q. (By Mr. Willis) If you had a rifle with
 7 twenty-four-thousandths inch of engagement, a
 8 sear lift of fifteen-thousandths, a trigger pull
 9 of just under five pounds, and one that passed a
 10 fire on safety release test, what would that
 11 tell you about the condition of that rifle?
 12 A. Perfectly good rifle.
 13 Q. If you had another rifle with an engagement of
 14 twenty-seven-thousandths of an inch, a sear lift
 15 of eighteen-thousandths of an inch, a trigger
 16 pull of 4.8 pounds, and it passed fire on safety
 17 release tests, what would that tell you about
 18 the condition of that rifle?
 19 A. Good rifle.
 20 Q. If you had a rifle, a Model 700, with
 21 twenty-three thousandths inch of engagement,
 22 fourteen-thousandths of an inch of sear left, a
 23 trigger pull of 4.96 pounds, and it passed the
 24 fire on safety release test, what would it tell
 25 you about that rifle?

1 A. Good rifle.
 2 Q. If you had a Model 700 with
 3 twenty-seven-thousandths inch engagement,
 4 thirteen-thousandths inch of sear lift,
 5 five-and-three-quarter pound trigger pull and it
 6 passed the fire on safety release test, what
 7 would it tell you about that rifle?
 8 A. Good rifle.
 9 Q. Now, these measurements for rifles that I've
 10 just given you, would those be the type of
 11 rifles you're referring to when you say rifles
 12 with bad safeties?
 13 A. I have to admit that all of the talk about bad
 14 safeties is hearsay to me.
 15 Q. From whom?
 16 A. I have not -- from Rich Barber first. And --
 17 Q. Okay. Well, let me ask you this. The facts
 18 that I described on these rifles I just
 19 mentioned to you, do any of those fall into what
 20 you would consider to be a bad safety?
 21 A. No.
 22 MR. HIGHTOWER: Objection, asked and
 23 answered.
 24 MR. WILLIS: Let's go off the record for
 25 just a minute.

1 A. The only way you can --
 2 MR. WILLS: We're off the record.
 3 VIDEO TECHNICIAN: Off the record at
 4 12:51 p.m.
 5 (A recess was taken.)
 6 VIDEO TECHNICIAN: On the record at
 7 12:52 p.m.
 8 MR. WILLS: Mr. Walker, the lawyers
 9 have all agreed that we're going to stop for the
 10 day, and we'll see you again tomorrow for a
 11 little bit?
 12 THE WITNESS: Okay.
 13 MR. WILLS: Fair enough? You have a
 14 good evening, okay? Thank you.
 15 VIDEO TECHNICIAN: This marks the end
 16 of video number one in the deposition of Mr.
 17 Walker. We're off the record at 12:52 p.m.
 18 (The deposition was adjourned, to be
 19 reconvened the following day.)
 20
 21
 22
 23
 24
 25

1 CERTIFICATE
 2
 3 STATE OF MISSOURI)
 4) ss.
 5 COUNTY OF JACKSON)
 6 I, STACY L. DECKER, a Notary Public and
 7 Certified Shorthand Reporter, do certify that
 8 pursuant to Notice, at the law offices of law
 9 offices of Van Winkle, Buck, Wall, Starnes & Davis,
 10 P.A., 422 South Main Street, Hendersonville, North
 11 Carolina,
 12
 13 MERLE H. WALKER
 14
 15 came before me, was duly sworn to testify the whole
 16 truth of his knowledge of the matters in controversy
 17 aforesaid, was examined and his examination then
 18 written in stenotype by me and afterward typed, and
 19 subscribed by the witness as hereinbefore set out,
 20 on the day in that behalf aforesaid; and said
 21 deposition is herewith returned.
 22
 23 I further certify that I am not counsel,
 24 attorney or relative of either party, or clerk or
 25 stenographer of either party or of the attorney of
 either party, or otherwise interested in the event
 of this suit.
 IN WITNESS WHEREOF, I have hereunto set
 my seal at my office in said County and State, this
 31st day of January, 2011.
 STACY L. DECKER
 CCR NO. 858

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