

Products Liability Law Daily Wrap Up, SETTLEMENT AGREEMENTS— WEAPONS AND FIREARMS—W.D. Mo.: Remington seeks final approval of rifle defect settlement, (Jan. 19, 2017)

Products Liability Law Daily Wrap Up

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By Susan Engstrom

Remington Arms Co. and a class of rifle owners have asked a Missouri federal court to give final approval to a settlement agreement resolving allegations that the trigger mechanism in the manufacturer's Model 700 bolt-action rifles was defectively designed. According to the complaint, the mechanism uses a trigger connector that can result in accidental discharges without the trigger being pulled. As part of the settlement, which received a preliminary nod by the court in 2015, Remington agreed to retrofit the firearms with a connectorless trigger mechanism at no cost to the consumers ([Pollard v. Remington Arms Co., LLC](#), January 17, 2017).

A consumer had purchased a Remington Model 700 rifle in 2000, and, in 2010, the rifle had fired three separate times without his having pulled the trigger. He filed a putative class action suit against Remington Arms Co., Inc., Sporting Goods Properties, Inc., and E.I. DuPont de Nemours and Co., seeking damages based on the allegedly inadequate value he received in having purchased the rifle, including damages for the replacement or repair of the fire control mechanism. Among the claims asserted by the consumer were strict products liability and negligence, as well as fraudulent concealment and a state-law unfair trade practices claim that made reference to fraudulent misrepresentation. He also sought a declaration that all Remington Model 700 rifles utilizing the Walker trigger mechanism are defective, that the defendants knew of the defect, and that the defendants should issue a recall of the Model 700 rifles.

According to the consumer, the Walker mechanism in Remington Model 700 rifles allows debris and other foreign materials to slip between the trigger and the trigger connector, making the rifles susceptible to accidental discharge without the trigger being pulled. The consumer averred that the design defect in the Walker trigger is common to all rifle models which employ that fire control mechanism, and that the defendants have received thousands of complaints of Remington Model 700 rifles with Walker mechanisms firing without a trigger pull. The consumer contended that the defendants knew of the dangerous conditions of the Model 700 rifle but never issued a public warning or recalled the rifles, and that the defendants falsely represented to the public that the Model 700 was a trusted, safe, and reliable rifle, and that it was free from defects in materials and workmanship.

X-Mark Pro recall. During mediation proceedings, Remington undertook a voluntary safety recall of all Model 700 and Model Seven bolt-action rifles containing X-Mark Pro trigger mechanisms (which, unlike the Walker mechanism, do not use a trigger connector component) manufactured from May 1, 2006, to April 9, 2014. The company had learned that the then-existing X-Mark Pro assembly process created the potential for the application of an excess amount of bonding agent, which could cause Model 700 and Model Seven bolt-action rifles containing X-Mark Pro trigger mechanisms to discharge without a trigger pull under certain limited conditions. Participants in the recall, which is still in place, are provided with new triggers manufactured under an improved assembly process. Following the recall, the class action plaintiffs amended their complaint to include a putative X-Mark Pro recall class.

Terms of settlement. Under the settlement agreement, all owners of Model 700 bolt-action rifles containing a Walker trigger mechanism would be entitled to have their firearm retrofitted with an X-Mark Pro trigger mechanism (made under the revised assembly process) at no cost to them. The settlement agreement also would provide owners of other firearm models using a trigger connector with a connectorless trigger mechanism retrofit at no cost. In addition, owners of older-model firearms that cannot be readily retrofitted because of their age and design (such as Models 600, 660, and XP-100, as well as Models 721, 722, and 725) would be eligible

for an educational DVD regarding safe firearm handling practices, as well as a voucher code redeemable for products at Remington's online store. Finally, owners of firearms subject to the X-Mark Pro recall may participate in either the settlement or the ongoing recall.

Settlement classes. The court conditionally certified two settlement classes: (1) Settlement Class A, or the "Trigger Connector Class," which would be composed of owners of 13 different models of firearms that contain a trigger mechanism that uses a trigger connector; and (2) Settlement Class B, or the "XMP Recall Class," which would include owners of Model 700 and Model Seven rifles that contain an X-Mark Pro trigger mechanism manufactured from May 1, 2006, to April 9, 2014.

Claims process. Although a formal claims process will not start unless final approval of the settlement is granted, claim forms are available and may be submitted until 18 months after the effective date. Angeion Group has been appointed as the Class Action Settlement Administrator.

The case is No. [4:13-CV-00086-ODS](#).

Companies: Remington Arms Co., LLC; E. I. du Pont de Nemours and Co.; Sporting Goods Properties, Inc.

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