

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIAM G. MOODIE and JAMES W.  
WATERMAN, on behalf of themselves  
and all others similarly situated

Plaintiffs

v.

REMINGTON ARMS COMPANY, LLC.,  
SPORTING GOODS PROPERTIES, INC.  
and E.I. DU PONT NEMOURS AND  
COMPANY,

Defendants.

No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiffs, William G. Moodie and James W. Waterman, by and through undersigned counsel, on behalf of themselves and all other entities and persons similarly situated, sue Defendants Remington Arms Company, LLC. ("Remington"), Sporting Goods Properties, Inc. ("SGPI") and E.I. Du Pont Nemours and Company ("DuPont") (collectively "Defendants") and for their Complaint allege, upon information and belief and based on the investigation to date of their counsel, as follows:

**INTRODUCTION AND SUMMARY OF ACTION**

1  
2 1. This is a class action asserting unfair and deceptive trade practices in violation of  
3 Washington Statutes § 19.86.010 *et seq.*, North Carolina Statutes § 75-1.1 *et seq.*, strict products  
4 liability, negligence, violation of the Magnuson-Moss Act, breach of express warranty, breach of  
5 implied warranty of merchantability, fraudulent concealment, unjust enrichment and seeking  
6 damages and declaratory relief in connection with the patented Walker Fire Control (the “Model  
7 700 Rifle” or the “Product”), designed, manufactured, marketed, advertised and sold by  
8 Defendants.  
9

10 2. The patented Walker Fire Control was introduced in 1948 and is found in excess of  
11 5,000,000 Remington brand firearms.  
12

13 3. Defendants designed, manufactured marketed, advertised, warranted and sold the  
14 Remington Model 700 bolt action rifle with the patented Walker Fire Control (the “Model 700  
15 Rifle” or the “Product”), to Plaintiffs and the Class as well as the general public. In conjunction  
16 with each sale, Defendants advertised that the Product was fit for the ordinary purpose for which  
17 such goods were used and was free from defects in materials and workmanship.  
18

19 4. As discussed below, Defendants’ knowledge of devastating design flaws  
20 associated with the Walker Fire Control trigger assembly dates back to before the assembly was  
21 ever placed into the stream of commerce. Defendants’ knowledge of the defects associated with  
22 the fire control continued to grow. Indeed, Defendants have known since 1979 that at least one-  
23 percent of all Model 700 Rifles at that time would “trick,” allowing them to fire unexpectedly  
24 without a trigger pull. On information and belief, Plaintiffs contend that this percentage is vastly  
25 understated and that all Model 700 Rifles are subject to unexpected firing without a trigger pull  
26 because of the design defects inherent in the Walker Fire Control trigger assembly which are

1 common to all Models that employ this fire control and the “trick condition” which results in a  
2 fire on safe release (“FSR”) malfunction is only but one common form of malfunction associated  
3 to this design.

4  
5 5. Despite decades of knowledge related to the various dangerous conditions of the  
6 Model 700 Rifle, Defendants never issued an adequate warning or recall of the Model 700 Rifles  
7 and Remington continues to falsely represent to the public that the Model 700 is a trusted, safe  
8 and reliable Rifle.

9 6. Following one of the largest settlements ever awarded to an accident victim by a  
10 firearm manufacturer’s insurance carrier in 1978, Remington opted to recall the Model 600 series  
11 rifles once the alleged malfunctions associated to the Walker fire control and the settlement  
12 amount were given wide publicity by the media. In 1975, Remington determined that the Model  
13 600 series rifles exhibited a 55.9% failure rate according to their internal testing sample of 615  
14 rifles that were audited. The Model 600 series exhibited the exact forms of safety related  
15 malfunctions as claimed herein as the Model 700 bolt action rifle due to the similarity of  
16 construction of the fire control systems built under the Patent for the Walker fire control.  
17 However, Remington true to form had failed to warn, retrofit or recall these effected rifles until  
18 after the Coates settlement in 1978, three (3) years after their internal audit finding. Despite the  
19 fact that the Model 600 rifle employed the same Fire Control system developed and protected by  
20 the Walker Haskell Patent (Walker Fire Control) it is still used by Defendants in the Model 700  
21 Rifles, Defendants have not recalled all, or any of the Model 700 Rifles.

#### 24 **JURISDICTION AND VENUE**

25 7. This Court has jurisdiction over the subject matter of this action pursuant to 28  
26 U.S.C. § 1332(d)(2) (diversity jurisdiction) and the Class Action Fairness Act, in that (i) there is

1 complete diversity (Plaintiffs are citizens of Washington and North Carolina, Defendant  
 2 Remington Arms, LLC is a Delaware corporation with its headquarters/principal place of business  
 3 in Madison, N.C., Defendant Sporting Goods Properties, Inc. is a Delaware corporation  
 4 headquartered in Wilmington, Delaware and Defendant, E.I. du Pont de Nemours & Company is  
 5 a Delaware corporation headquartered in Wilmington, Delaware), (ii) the amount in controversy  
 6 exceeds \$5,000,000.00 (Five Million Dollars) exclusive of interests and costs, and (iii) there are  
 7 100 or more members of the proposed Plaintiff class.

8  
 9 8. Defendants conduct substantial business in Washington, including the sale and  
 10 distribution of the Remington firearms, and have sufficient contacts with Washington or  
 11 otherwise intentionally avail themselves of the laws and markets of Washington, so as to sustain  
 12 this Court's jurisdiction over Defendants.

13  
 14 9. Venue is proper in this district pursuant to 28 U.S.C. § 1391, *et seq.* because a  
 15 substantial part of the events or omissions giving rise to this claim occurred in the state of  
 16 Washington. Additionally, venue is appropriate for the claims arising out of Washington's  
 17 Consumer Protection Act because the statute applies to any company engaging in any of the  
 18 activities regulated by the Act within the State of Washington.

### 19 PARTIES

20  
 21 10. Plaintiff, William G. Moodie, is and, at all relevant times hereto was, a citizen and  
 22 resident of Washington. Specifically, Plaintiff resides in Bothell, Snohomish County,  
 23 Washington. In or around 1992, Plaintiff purchased a Remington Model 700 Bolt Action Rifle  
 24 from Kesselring's Gun Shop in Burlington, Washington. In January 2012, Plaintiff was hunting in  
 25 Island County, Washington. As Plaintiff was moving the safety from the safe position to the fire  
 26 position, the rifle suddenly and unexpectedly fired without a pull of the trigger.

1           11. Plaintiff, James W. Waterman, is and, at all relevant times hereto was, a citizen  
2 and resident of North Carolina. Specifically, Plaintiff resides in Gastonia, North Carolina. In or  
3 around 1996, Plaintiff purchased a Remington Model 700 Bolt action Rifle from Castle Sports  
4 Unlimited in Batou, North Carolina. In December 2012, Plaintiff was hunting near Charlotte,  
5 North Carolina. As Plaintiff was moving the safety from the safe position to the fire position, the  
6 rifle suddenly and unexpectedly fired without a pull of the trigger.

7  
8           12. Defendant, Remington Arms, LLC ("Remington"), is a Delaware corporation with  
9 its headquarters/principal place of business, in Madison, N.C.

10           13. Defendant Sporting Goods Properties, Inc. ("SGPI") is a Delaware corporation  
11 with its headquarters/principal place of business in Wilmington, Delaware.

12           14. Defendant, E.I. du Pont de Nemours & Company ("DuPont"), is a Delaware  
13 corporation headquartered in Wilmington, Delaware. DuPont is a citizen of the State of Delaware.  
14 DuPont's principal place of business is located in Delaware, and all misrepresentations and  
15 omissions made to Plaintiff arise from a scheme or artifice devised and orchestrated primarily in  
16 Delaware. The defective Product was designed primarily in Delaware, New York and  
17 Connecticut.

18  
19           15. Defendant Remington, was, and is now engaged in the business of designing,  
20 manufacturing, assembling, distributing and selling firearms, and in this regard did design,  
21 manufacture, distribute, sell and, place into the stream of commerce, the Remington Model 700,  
22 Bolt Action Rifles including the action, fire control system, and safety, knowing and expecting  
23 that said rifle would be used by consumers and around members of the general public.

24  
25           16. Prior to November 30, 1993, DuPont owned 100% of the stock in the company  
26 known as Remington Arms Company, Inc., now known as Sporting Goods Properties, Inc.

1 (“SGPI”). On or about November 30, 1993, RACI (Remington Arms Acquisition Corporation,  
2 Inc.) purchased from DuPont substantially all of the income producing assets of Remington Arms  
3 Company, Inc. (now known as SGPI), including the corporate name. The company formerly  
4 known as Remington Arms Company, Inc. changed its name to Sporting Goods Properties, Inc.,  
5 and RACI changed its name to Remington Arms Company, Inc. SGPI retained certain non-  
6 income producing assets, some with significant environmental and other liabilities such that its  
7 net worth was reduced to a small fraction of its former so that SGPI may not be able to pay  
8 reasonable judgments in this and similar litigation.  
9

10 17. At all times pertinent to this action, SGPI and DuPont were and are the alter ego  
11 of each other and in essence constitute one legal entity in which SGPI operates as a division of  
12 DuPont. The separate incorporation of SGPI is a sham in that it is merely a corporate veil which  
13 insulates DuPont from liability for products manufactured and sold by SGPI. DuPont exerted,  
14 and currently exerts extreme influence, complete dominion and/or absolute control over the  
15 corporate activity and function of SGPI. DuPont’s continued operation of SGPI as a separate  
16 legal entity is a subterfuge designed to defeat public convenience, justify a wrong, perpetrate a  
17 fraud and/or otherwise work an injustice on Plaintiffs herein and the general public. The conduct  
18 of DuPont and/or SGPI has harmed or will harm Plaintiffs and the general public, justifying  
19 piercing of the corporate veil resulting in DuPont being liable for the acts and omissions of SGPI  
20 as they are in reality one legal entity.  
21  
22

23 18. Defendant Remington, SGPI and DuPont are so intertwined contractually for the  
24 liabilities, past, present and future, of each other that they are, in fact, one entity and therefore, the  
25 corporate veils of each company should be pierced to properly ascertain the responsible parties for  
26 the allegations contained herein. The Asset Sale/Purchase Agreement transferring the assets of

1 SGPI to Remington and various revised or supplemental agreements spreads responsibility and  
2 authority for product liability claims among the three entities as it is unclear who bears the  
3 contractual liability for this claim.

4 19. Remington and/or DuPont expressly and impliedly agreed to assume certain debts  
5 and responsibilities, including the product liability of SGPI by the terms of the Asset/Sale  
6 Purchase Agreement as well as the continuing relationship between Remington, DuPont and  
7 SGPI. Consequently, DuPont and/or Remington are the corporate successors to the product  
8 liability claims asserted, now and in the future, against SGPI, including this particular lawsuit.

9 20. Remington continues in the design, manufacture, distribution and sale of all  
10 Remington Arms product lines including the Remington Model 700 bolt action rifle, without any  
11 significant changes. Remington maintains the same plants, employees, organization, contracts,  
12 customers, suppliers, advertising, products and name acquired in the asset purchase. Remington  
13 acquired the entire company from SGPI through an asset/sale purchase in order to avoid and/or  
14 limit the liability resulting from an outright purchase of the stock from DuPont. Consequently,  
15 DuPont and/or Remington are the corporate successors to the product liability claims asserted,  
16 now and in the future, against SGPI, including this particular lawsuit.

17 21. Remington, DuPont and SGPI acted fraudulently with respect to the asset/sale  
18 purchase in that its purpose was to avoid and/or limit the responsibility of DuPont and/or  
19 Remington for the debts of SGPI, particularly its product liability. Consequently, DuPont and/or  
20 Remington are the corporate successors to the product liability claims asserted, now and in the  
21 future, against SGPI, including this particular lawsuit.

22 22. At all times pertinent to this action SGPI was an agent of DuPont acting in the  
23 course and scope of its agency relationship thereby making its principal, DuPont, liable for all of  
24

1 SGPI's acts and omissions, either by exercising direct control over SGPI, or by adopting and  
2 ratifying SGPI's acts or omissions.

3 23. At all times pertinent to this action, agents of DuPont, acting within the course and  
4 scope of their agency relationship, controlled SGPI, thereby making SGPI's acts and omissions  
5 those of their principal, DuPont, either by exercising direct control over SGPI, or by adopting and  
6 ratifying SGPI's acts or omissions.  
7

8 **COMMON FACTUAL ALLEGATIONS**

9 **WALKER FIRE CONTROL TRIGGER ASSEMBLY DEFECT**

10 24. The Walker Fire Control Trigger Assembly is unique to the world of firearms and  
11 is exclusive to Remington brand products. The design utilizes an internal component known as a  
12 trigger "connector." This design feature uses this additional part which in practice and in effect  
13 creates a unique trigger design comprised of two distinctly different parts. The Trigger Connector  
14 design has not been adopted by any other rifle manufacturer. The connector floats on top of the  
15 trigger and is not physically attached to the trigger in any fashion but rather is held in place by  
16 tension from a spring and the side plates which create a fully enclosed housing. (See Illustration  
17 1). Upon pulling the trigger the connector is pushed forward by the upper member of the trigger  
18 body, which allows the sear to fall and rifle to fire. (See Illustration 2).  
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26



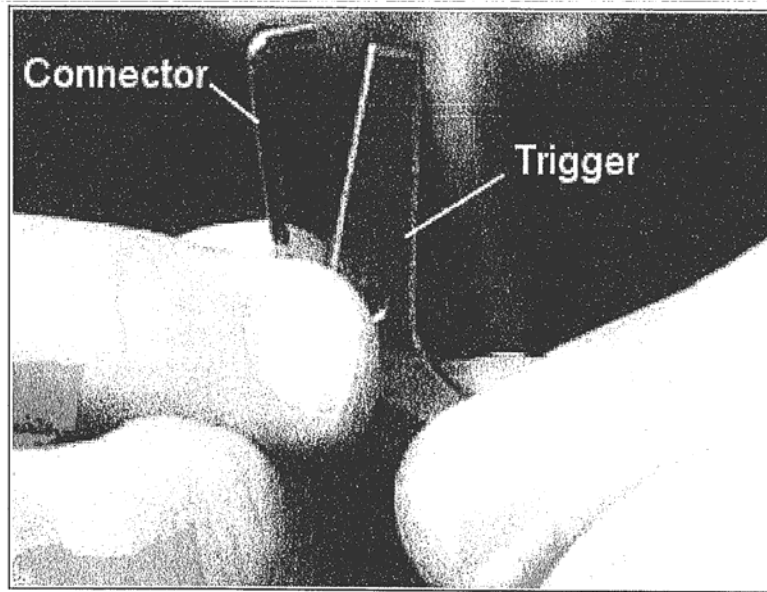


Illustration 1

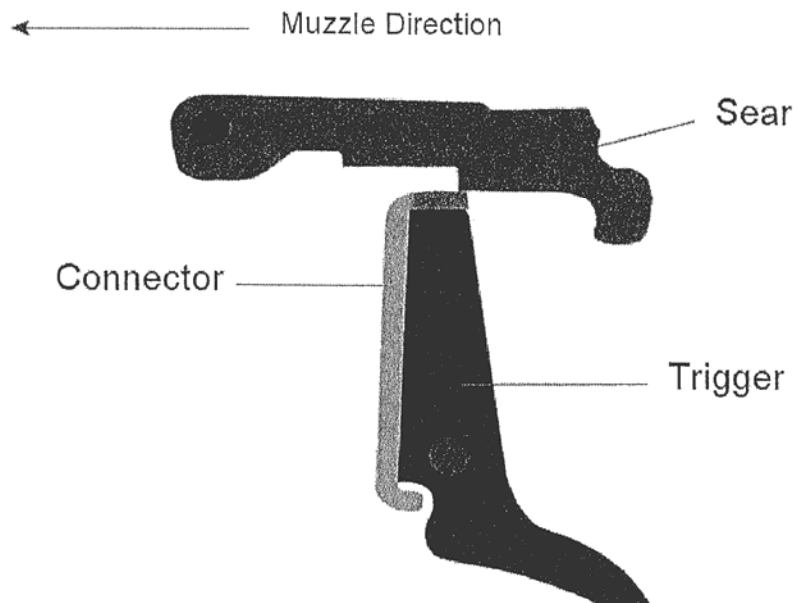


Illustration 2

25. The connector sits under the sear with a specified overlap of as little as 20/1000ths of an inch, which is approximately equal to one-half of the width of a dime or eight human hairs. When a rifle is fired the connector repeatedly separates from the trigger body, creating a gap

1 between the two parts. Because of the gap created between the trigger body and trigger connector  
 2 upon firing, field debris, manufacturing scrap, burrs from the manufacturing process, lubrication  
 3 applied at the factory, other lubrication build up, or moisture can foreseeably become trapped  
 4 inside the enclosed fire control housing and restrict the return of the trigger connector to proper  
 5 engagement under the sear, thus predisposing the rifle to malfunction in the absence of a trigger  
 6 pull. The above described conditions have been further enhanced by various interferences created  
 7 between other parts that are used to comprise this fire control during their assembly. These  
 8 conditions have been created as the result of tolerances that Remington has adopted for "ease of  
 9 manufacture" including loose inspection practices of parts prior to their assembly as a cost saving  
 10 measure on the part of the company. (Illustration 3). Binding created by interference with other  
 11 parts of the fire control can also interfere with the return of the trigger connector to proper  
 12 engagement under the sear which will create the same dangerous condition.  
 13  
 14

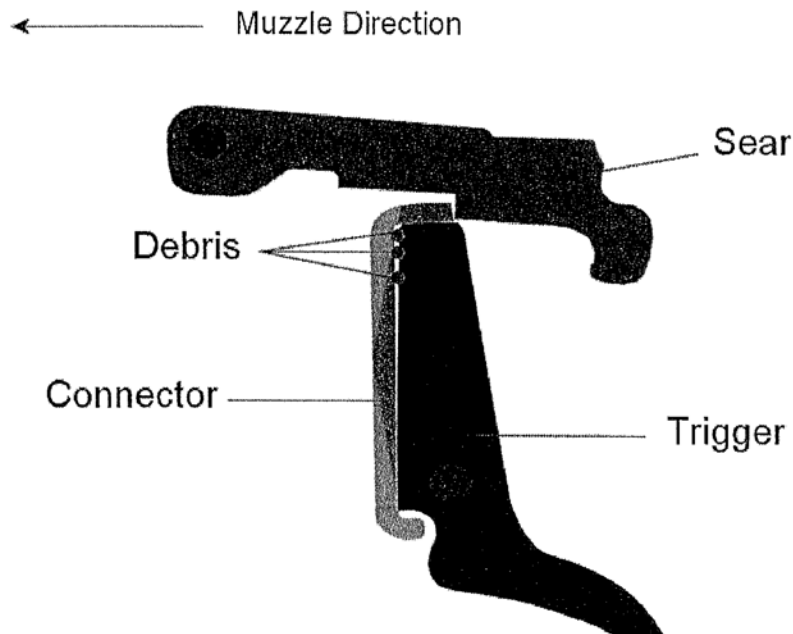


Illustration 3

1           26. When the gap between the connector and trigger is large enough, thereby  
2 diminishing the engagement (overlap) of the two parts, the connector will no longer reliably  
3 support the sear, allowing the rifle to fire without a trigger pull. These unintended firings have  
4 been so persistent and common place that Remington has adopted acronyms for the various most  
5 common forms of malfunction that Remington itself has observed to occur, *i.e.*, Fire on Bolt  
6 Closure “FBC”; Fire on Bolt Opening “FBO”; Fire on Safe Release “FSR”; Jar Off “JO”, Fire Off  
7 Safe “FOS” and “Fails to Fire.”

9           27. Remington engineers have testified in product liability litigation throughout the  
10 country that materials can lodge between the connector and trigger, resulting in the connector  
11 being unable to return to a reliable position to support the sear. Indeed, Remington undertook  
12 several redesign efforts in the 1940s, 1970’s, 1980s and 1990s to try to eliminate the functional  
13 deficiencies associated with materials becoming lodged between the connector and trigger, or  
14 binding of the connector with other parts of the fire control.

16           28. There is no sound engineering reason to employ a separate connector that is not  
17 physically connected to the trigger. This is evidenced by the fact that at no time has any other  
18 firearm manufacturer in the world utilized such a device. Many after-market manufacturers have  
19 also created replacement triggers that could be used to replace the defective Walker Fire Control  
20 system that did not include trigger connectors. Indeed, Mr. Walker himself confirmed in January  
21 2011 that the extra connector served no engineering purpose other than to make operation of the  
22 trigger pull smoother for the user, and to reduce the manufacturing cost of the fire control.

24           29. Finally acting upon information that it has had for years, in 2006 Remington  
25 created and began utilizing a new fire control system called the X-Mark Pro. This design  
26 eliminated the use of a two piece trigger design and a separate trigger connector that is not affixed

1 to the trigger body. Yet despite all of the information Remington has related to the thousands of  
2 complaints associated with the Walker Fire Control trigger assembly, it has not undertaken a  
3 recall to replace the Walker Fire Control system with the X-Mark Pro or another safe design.  
4 And making matters even worse, Remington has continued to utilize the Walker Fire Control  
5 trigger assembly in some rifles after the design of the X-Mark Pro was released to the public in  
6 2006, in spite of an agreement reached with the family of Gus Barber in 2002 to discontinue  
7 production of the Walker fire control after the release of the X Mark Pro.  
8

### 9 **DEFENDANT'S KNOWLEDGE OF THE DEFECT**

10 30. Defendants designed the Walker Fire Control trigger assembly and began  
11 manufacturing and distributing firearms containing that trigger assembly in March of 1948.  
12 Internal Remington documents show that almost immediately following the production of these  
13 early Walker Fire Control system firearms, Remington became aware that the firearms were firing  
14 without a trigger pull as a result of communications to Remington by consumers.  
15

16 31. Defendants produced several models of firearms containing the Walker Fire  
17 Control. The vast majority of these firearms are part of the Model 700 bolt action rifle series,  
18 with over five million of these rifles having been placed into the stream of commerce since 1962.  
19

20 32. Defendants have made hundreds of millions of dollars over the last six decades  
21 through the sale of their Model 700 bolt action rifles.

22 33. Defendants designed, manufactured, distributed, sold and, placed the Rifles into  
23 the stream of commerce knowing and expecting that they would be used by consumers and  
24 around members of the general public.

25 34. Just six years after introducing the Model 700 bolt action Rifles to the consuming  
26 public, in March 1968 Consumer Reports wrote an article describing inadvertent discharges in the

1 Model 700 Rifle:

2 The sixth-ranked rifle, the Remington 700, exhibited a potentially dangerous flaw as first  
3 tested. There was so little clearance between the trigger and the trigger guard that when  
4 the trigger was pulled with the safety on (something you or a friend might do when  
5 sighting down the rifle or trying it for feel), the trigger sometimes failed to return to its  
6 forward position. And with the trigger in the back position, the rifle would fire without  
7 warning the next time the safety was moved to the fire position. The malfunction  
8 persisted for more than 100 firings before the trigger wore in and performed normally. An  
9 unwary buyer might have caused a serious accident by then.

10 35. According to an internal Remington memorandum, upper management at  
11 Remington expressed “extreme displeasure” to the Consumer Reports article.

12 36. The warnings outlined by Consumer Reports proved true and over the past fifty  
13 years, Defendants received thousands of complaints in the form of letters, telephone calls and  
14 emails that Remington Model 700 rifles containing the Walker Fire Control fired without a trigger  
15 pull.

16 37. In 1978, Remington’s insurance company settled a personal injury case brought by  
17 John Coates for \$6.8 million when he was paralyzed by an unintended firing of a Model 600 rifle.  
18 Shortly after the settlement, Remington made the decision to recall all of its Model 600 series  
19 rifles. The Model 600 series rifle utilized the Walker Fire Control which similarly employed an  
20 independent trigger connector. The Model 600 rifle was not nearly as popular as the Model 700  
21 rifles, with far fewer firearms in commerce.

22 38. At the same time Defendants recalled the Model 600 rifles, and recognizing that  
23 similar unintended firings in the absence of a trigger pull were occurring across the country with  
24 its more popular Model 700 bolt action rifles, Remington contemplated conducting a similar  
25 recall of the Model 700 rifles. Internal documents show that Remington, using self-serving  
26 conjecture and assumptions, opted not to recall the Model 700 Rifles because, of the 2,000,000

1 firearms that were in commerce at the time, Remington concluded that “the recall would have to  
 2 gather 2,000,000 rifles ‘just’ to find 20,000 effected rifles” in the hands of the public at that time.  
 3 To put this into perspective, this number would indicate that about 1 out of every 100 rifles in the  
 4 hands of the public were effected with a condition that would potentially result in the rifle firing  
 5 on safety release, according to Remington’s own estimate at that time when they were considering  
 6 this recall. This decision was made in light of full knowledge that: “A common source of  
 7 accidents with firearms is accidental discharge.” In the same company document Remington also  
 8 acknowledges that: “A safety is provided to prevent accidental discharge.”  
 9

10 39. Rather than take the responsible action and recall the Model 700 rifles at the same  
 11 time it recalled the Model 600 rifles, Remington focused its efforts on distancing the recalled  
 12 models from other models it continued to produce containing the Walker fire control. Remington  
 13 also focused on creating a safe gun handling defense to product liability claims that Remington  
 14 expected due to incidents of unintended firings that resulted in personal injury or death.  
 15 Remington modified the “10 Commandments of Gun Safety” to shift responsibility for personal  
 16 injuries or death to the gun handler. This was the beginning of a trend that Remington has  
 17 followed for over forty years – blame the consumer and hide any knowledge of the Walker Fire  
 18 Control trigger assembly design defect.  
 19

20 40. Throughout the 1970s Remington continued to consider safer alternative designs  
 21 and enhancements to the Walker Fire Control system. An internal memo dated November 16,  
 22 1978 states:  
 23

24 The following design requirements for a new fire control for bolt action rifles  
 25 were tentatively established – Eliminate the “trick” condition. At this point the  
 26 best solution appears to be adding a trigger block to the safety cam mechanism.  
 This would prevent the trigger from moving in the “safe” position – eliminating  
 the “fail to reset” possibility.

1 The document goes on to recommend that the new fire control should be “retrofittable” to the  
 2 Model 700. A 1980 - 1981 Firearms Research Division programs schedule lists as a “necessity”  
 3 “fire control improvement” because it was “necessary to reduce product liability”. These new  
 4 designs all centered on the concept of removing the floating connector and incorporating a  
 5 trigger block to force full engagement of the trigger and sear. Remarkably, when it appeared that  
 6 Remington was going to pull the proverbial trigger and change the defective design by including  
 7 a safety that blocked both the trigger and the sear, Remington decided to put its financial  
 8 interests over the health and safety of the consuming public. On December 30, 1985, an internal  
 9 document states “R & D is working on improved safety and security features which should have  
 10 marketable value. (If they don’t, we ought to stop the work.)” Unfortunately, work on the new  
 11 design stopped shortly after the issuance of this memorandum. Instead, internal hand written  
 12 notes from an October 19, 1993 document titled (“Liability Point of View”) demonstrate that  
 13 Remington is not concerned about safety, but rather having a “readily defensible reason for  
 14 departure from current design.”

17 41. In 1994, a jury rendered a \$17 million verdict against Remington related to the  
 18 Model 700 design defect. After the verdict internal Remington documents pose a simple  
 19 question: “IS THE RIFLE SAFE?” Accountants ultimately did the math and determined that if  
 20 only 30% of its customers actually returned the rifles as part of a nationwide recall of the Model  
 21 700 bolt action rifles, it would cost Remington \$22 million to conduct the recall. Remington  
 22 opted against a recall.

24 42. In 1995, Remington documents revealed that further efforts to redesign the Walker  
 25 Fire Control trigger assembly were underway. Unfortunately, the redesign project was doomed  
 26 before it began. Remington’s Fire Control Business Contract of January 27, 1995 provided

(emphasis added):

- The goal is to provide a fire control that “feels” the same to our customers yet provides additional safeguards against inadvertent or negligent discharges.
- The purpose of the redesign of the fire control is to reduce the number of parts required, lower cost and to add design characteristics that enhance the safety attributes of our firearms.
- Under “Financial Analysis” the truth is further revealed: This is where the rubber meets the road. Is the project worth doing? What are the minimum forecasts to insure profitability and does our pricing structure support these expected profits.

43. This sentiment was echoed by Robert Haskin, Remington’s former general counsel and vice-president of marketing, who testified that “[i]t was my opinion that the new product was only worth doing if we could achieve certain goals, one of which was that **it costs the same or less**, another was that we could make certain improvements on the product, which you asked me to characterize, and I said my opinion could fairly characterized as **safety issues.**” So while Remington on the one hand took the position that any redesign of the Walker Fire Control trigger assembly was focused on addressing safety issues, the reality is that when the rubber meets the road, safety would take a back seat to profit.

44. Remington possessed clear knowledge by the late 1990s that the Walker Fire Control trigger assembly was dangerous and defective. Yet a clear decision was made that there would not be a public warning and the defective Rifles would not be recalled. Instead Remington decided to introduce a new rifle series to the consuming public – the Model 710. When designing the Model 710, Remington looked at what fire control system to employ in the new product. In 1997 the answer was straight forward – “Not the M700 fire control.”



1           45.     An internal February 1998 memo shows that Remington considered the costs to  
2 change their manufacturing process to produce a safer trigger assembly. It was determined that to  
3 change the trigger assembly it would require “fairly substantial investments in capital and  
4 technical resources” to increase their processing capabilities in Ilion, New York. In May 1998,  
5 the new trigger design was put on hold by Remington management “until economics and [the]  
6 project is approved.” Repeating its historical practice of putting profits over safety, on August  
7 25, 1998, Remington abandoned implementation of a new, safer trigger design because of an  
8 “estimated cost increase.” Instead, to “eliminate development cost and time,” Remington used  
9 the unsafe Walker Fire Control mechanism in the Model 710, completely reversing its decision  
10 made just eighteen months earlier to “Not [use] the M700 fire control.”  
11

12           46.     During testing of the Model 710 rifle, internal Remington documents reveal that on  
13 more than one occasion during pilot testing the rifles fired upon bolt closure and fired when the  
14 safety was moved from the safe to the fire position. Despite these internal testing failures,  
15 Remington introduced the Model 710 rifle to the consuming public in 2000. Remington’s  
16 knowledge of the potential dangers of the Model 710 rifle were so obvious that it issued a call  
17 order to its customer service department regarding how to handle customers who call complaining  
18 of unintended firings.  
19

20           47.     Following the preventable death of a 9 year old boy, Gus Barber, Remington did  
21 eventually agree to a limited safety modification program. Young Gus died when his mother  
22 moved the safety into the off position in order to unload her rifle, which caused the rifle to  
23 discharge suddenly and unexpectedly without a trigger pull. Gus’s death garnered nationwide  
24 attention after his family became committed to seeing to it that Remington take necessary steps to  
25 prevent future needless death or injury. After the Barber incident and only after the sustained  
26

1 media attention to this serious safety issue was brought to the forefront attention of the public,  
2 Remington ultimately agreed to a safety modification program for rifles produced prior to 1982  
3 that contained a “bolt-lock” feature, which requires the safety to be placed in the off position in  
4 order to unload the gun. This modification program (as compared to a recall) addressed one issue  
5 with pre-1982 Rifles, the propensity of the rifle to fire when a consumer was forced to unload the  
6 rifle with the safety off. This modification failed to address the documented defects related to the  
7 Walker Fire Control trigger assembly however. The modification simply now allowed users to  
8 cycle the bolt with the safety on. This modification did not correct the underlying potential of a  
9 rifle firing without a trigger pull.  
10

11 48. From 1992 to 2004, Defendants acknowledge receiving 3,273 customer complaints  
12 about Remington Model 700 rifles firing without a trigger pull. This amounts to an average of  
13 approximately five unintended firings per week for this twelve year period. On information and  
14 belief, the actual number of unintended firings for this time period is much higher because it is  
15 unlikely that every consumer who experienced a misfire would report the problem to Remington  
16 if he was lucky enough to avoid injury or property damage.  
17

18 49. In response to complaints from consumers regarding unintended firings of the  
19 Model 700 Rifle without a trigger pull, consumers were and are asked to return their rifle to  
20 Defendants for repair and testing. Defendants purportedly test the rifle, albeit using undisclosed  
21 testing procedures. Following the testing, Defendants consistently claim that they were “unable  
22 to duplicate” the unintended discharge, or that they were or are “unable to duplicate” the  
23 customer’s complaint. On information and belief, Defendants statements are false and fraudulent  
24 and made to deceive and continue to deceive consumers about the defects associated with the  
25 Rifles. Tellingly, Defendants admit internally that “a common source of accidents with firearms  
26

# THE CNBC DOCUMENTARY

<sup>1</sup> See Remington Under Fire: A CNBC Investigation, About the Show, <http://www.cnbc.com/id/39554879/> (last visited Dec. 24, 2012).

52. As part of the investigation for the documentary, CNBC interviewed Mike Walker, the Remington engineer who designed the Walker Fire Control trigger for the 700 rifle. “Walker’s internal company memos, obtained by CNBC, indicate that he repeatedly raised concerns, even after he retired from Remington, about the trigger system he designed.” *See id.*

53. “Other concerns were raised as well, including one from a Remington colleague who warned in a memo, ‘this situation can be very dangerous.’ Walker proposed a relatively inexpensive solution, though Remington has never recalled the rifle, and insists it has no defect.” *See id.* In fact, on information and belief, Remington repeatedly considered a “call back” of the 700 rifle, but decided against it.

54. As part of its investigation for the documentary, CNBC spoke with a former Remington employee whose job involved dealing with customer complaints related to the 700-series rifle. This former employee informed CNBC that he was instructed not to acknowledge any problem with the rifle because, if he had, he would have lost his job.

55. Remington responded to the numerous first-hand accounts of unintended firings from the Model 700 rifle by maintaining that the unintended firings are the result of poor maintenance and unsafe handling, often by inexperienced users.<sup>2</sup> In fact, Remington gave a written statement to CNBC before the documentary aired. This statement, mentioned during the program, contained the following statements which Remington knew were false when they were made:

- The Model 700, including its trigger mechanism, has been free of any defect since it was first produced and, despite any careless reporting to the contrary, the gun’s use by millions of Americans has proven it to be a safe, trusted and reliable rifle.

<sup>2</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012).

- Both Remington and experts hired by plaintiff's attorneys have conducted testing on guns returned from the field which were alleged to have fired without a trigger pull, and neither has ever been able to duplicate such an event on guns which had been properly maintained and which had not been altered after sale.<sup>3</sup>

56. After CNBC aired the documentary, Defendants published several responses, including a website located at <http://remington700.tv>, an Official Statement for CNBC Program Regarding the Model 700, and a Point by Point Response to the CNBC documentary.

57. These responses contained false and deceptive statements intended to deceive the public, including the claim that the Remington Model 700 rifle is a safe and reliable firearm that can only fire without a trigger pull where the rifle improperly modified or maintained. Specifically, Remington's responses contained the following statements that Remington knew were false:

- Recently CNBC produced an "expose" claiming that the trigger mechanism of the Model 700 rifle has a deadly design flaw. This claim is demonstrably false.<sup>4</sup>
- Both Remington and experts hired by plaintiff attorneys have conducted testing on guns returned from the field, which were alleged to have fired without a trigger pull, and neither has ever been able to duplicate such an event on guns which had been properly maintained and which had not been altered after sale.<sup>5</sup>

<sup>3</sup> Remington Arms, Official Statement for CNBC Program Regarding the Model 700, submitted September 7, 2010, <http://www.remington700.tv/fileadmin/pdfs/OfficialStatement.pdf>. (last visited Dec. 24, 2012).

<sup>4</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012).

<sup>5</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012); *see also* Remington Arms, Official Statement for CNBC Program Regarding the Model 700, submitted September 7, 2010, <http://www.remington700.tv/fileadmin/pdfs/OfficialStatement.pdf>. (last visited Dec. 24, 2012).

- Each of the tragic and emotional personal injury and death cases cited by CNBC involve a breach of one or more important gun safety rules:
- Failure to keep the rifle pointed in a safe direction
- Failure to properly maintain the rifle
- Altering the rifles trigger mechanism
- Failure to have the safety engaged when not actively engaged in firing the rifle.<sup>6</sup>
- The Barber rifle had been modified in multiple ways and poorly maintained (rusted action). Even so, in testing by experts for both Remington and the Barber family, the Barber rifle would fire only by pulling the trigger while the safety was in the fire position.<sup>7</sup>
- The truth about accidental discharges is clear. These things don't go off by themselves.<sup>8</sup>
- The Model 700, including its trigger mechanism, has been free of any defect since it was first produced and, despite any careless reporting to the contrary, the gun's use by millions of Americans has proven it to be a safe, trusted and reliable rifle.<sup>9</sup>
- **No scientific test has ever supported the accidental discharge theory of plaintiffs' lawyers and their expert.** That's true, even with a gun at the center of the CNBC report. The reporter tells the compelling story of the Barber family,

<sup>6</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012).

<sup>7</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012).

<sup>8</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012).

<sup>9</sup> Remington Point by Point Response, <http://www.remington700.tv/fileadmin/pdfs/point-by-point-response.pdf> (last visited Dec. 24, 2012).

who lost their son in a hunting accident a decade ago.

- But the show never reveals the condition of the gun, which experts found was heavily rusted, with the trigger engagement screw, safety lever, and fire control mechanism all adjusted, or removed and reinstalled.
- The gun fired only when the safety was in the fire position and the trigger was pulled, exactly as it was designed to do.<sup>10</sup>

58. In these responses, Defendants continued to fraudulently, deceptively and falsely state that Remington rifles containing the Walker Fire Control system can only fire without a trigger pull when they are improperly modified or improperly maintained.

59. According to public records, there have been more than 140 lawsuits filed against Defendants involving serious injury or death as a result of a firing in the absence of a trigger pull of Remington bolt action rifles containing the Walker Fire Control.

### **CLASS ACTION ALLEGATIONS**

60. Plaintiffs bring this class action pursuant to Federal Rule of Civil Procedure 23, and case law thereunder on behalf of themselves and all others similarly situated, with the Class defined as follows:

**All individuals in the States of Washington (“the Washington Class”) and North Carolina (“the North Carolina Class”) that own a Remington Model 700 Rifle originally manufactured and distributed with a Walker Fire Control Trigger Mechanism.**

Excluded from the Class are: (a) any Judge or Magistrate presiding over this action and members of their families; (b) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. DU Pont Nemours and Company and their subsidiaries and affiliates; (c) all persons who properly

<sup>10</sup> Chen, Joie, “*Remington’s In-Depth Response to CNBC Under Fire*,” <http://www.remington700.tv/#>, Tr. at [00:02:25;16]; [00:13:10;08]; and [00:03:18,27].

1 execute and file a timely request for exclusion from the Class; and (d) persons claiming personal  
2 injuries as a result of the defect in the Remington 700.

3 61. Plaintiffs reserve the right to modify or amend the Class definition, as appropriate.  
4 Certification of Plaintiffs' claims for class-wide treatment is appropriate because Plaintiffs can  
5 prove the elements of their claims on a class wide basis using the same evidence as would be used  
6 to prove those elements in individual actions alleging the same claims, and because this case  
7 meets the requirements of Federal Rule of Civil Procedure 23.  
8

9 62. *Numerosity*: The Class is composed of thousands of persons geographically  
10 dispersed throughout the States of Washington and North Carolina, the joinder of whom in one  
11 action is impractical. The Remington 700 has been one of the most popular guns (in terms of  
12 sales volume) in the United States. Plaintiffs are informed and believe that there are at least  
13 thousands of purchasers who have experienced the Defect and have been damaged by  
14 Defendants' conduct, as alleged herein. Moreover, upon information and belief, the Class is  
15 ascertainable and identifiable from Defendants' records or identifying marks on the Product.  
16

17 63. *Commonality*: The critical question of law and fact common to the Plaintiff  
18 Class that will materially advance the litigation is whether the Product is inherently defective,  
19 contrary to the expectations imparted by Defendants through their representations and omissions.  
20

21 64. Furthermore, other questions of law and fact common to the Class that exist as to  
22 all members of the Class and predominate over any questions affecting only individual members  
23 of the Class include the following:

24 a. Whether the design of the Remington 700 does not provide enough clearance  
25 between the sear and the trigger connector and thereby causes the Defect;  
26



1           b. Whether the design of the Remington 700 allows for excessive clearance between  
2 the sear and the trigger connector and thereby causes the Defect;

3           c. Whether the manufacturing process of the Remington 700 can cause metal  
4 shavings or steel chips to become concentrated in one position and thereby causes the Defect;

5           d. Whether the design of the Remington 700 allows the Defect to occur by  
6 unlocking the bolt;

7           e. Whether the design of the Remington 700 allows the Defect to occur by pushing  
8 the safety to the “off” position;

9           f. Whether the design of the Remington 700 rifle will fail to fire if the fire control is  
10 not consistently lubricated, especially in cold climates;

11           g. Whether the Defect is caused solely by improper gun maintenance;

12           h. Whether Defendants violated the Washington Consumer Protection Act and North  
13 Carolina’s Unfair Trade Practices Act by, among other things, engaging in unfair, unlawful, or  
14 fraudulent practices in connection with the failure to disclose the material and potentially life-  
15 threatening Defect in the Remington 700;

16           i. Whether Defendants have been unjustly enriched as a result of the conduct  
17 complained of herein;

18           j. Whether Plaintiffs and the Class are entitled to equitable relief, including but not  
19 limited restitution;

20           k. Whether the design or manufacturing of the Remington 700 can cause the Defect,  
21 and thus the rifles are not suitable for their intended use;

22           l. Whether Defendants knew or should have known that Remington 700s were  
23 defective;

1 m. Whether Defendants had a duty to Plaintiffs and the Class to disclose the true  
2 nature of the Remington 700s;

3 n. Whether Defendants falsely represented that their Remington 700 were of a  
4 certain standard, quality, and grade, when in fact, they were not;

5 o. Whether Defendants concealed material information regarding the true  
6 characteristics and defective nature of their products;

7 p. Whether Defendants' false representations and concealment of the defective  
8 nature of their Remington 700s was knowing, intentional, reckless, and/or malicious;

9 q. Whether Plaintiffs and the Class are entitled to actual, statutory, punitive,  
10 exemplary, and/or other forms of damages, and/or other monetary relief and, if so, in what  
11 amount;

12 r. Whether Defendants breached their express warranties to Plaintiffs and the Class;  
13 and

14 s. Whether Defendants breached their implied warranties to Plaintiffs and the Class.

15  
16 65. *Typicality*: Plaintiffs' claims are typical of the claims of the members of the Class,  
17 as all such claims arise out of Defendants' conduct in designing, manufacturing, marketing,  
18 advertising, warranting and selling the defective Remington Model 700, 7mm 08 bolt action rifles  
19 with a Walker Trigger Mechanism manufactured from 1948 to present that have experienced the  
20 Defect, and were damaged as a result. The universally defective nature of the Remington 700  
21 renders each Class member's claims, legal theory, and injury common and typical.

22 66. *Adequate Representation*: Plaintiffs will fairly and adequately protect the interests  
23 of the members of the Class and have no interests antagonistic to those of the Class. Plaintiffs  
24 have retained counsel experienced in the prosecution of complex class actions, including but not  
25  
26

1 limited to consumer class actions involving, *inter alia*, breach of warranties, product liability and  
 2 product design defects.

3       67. *Predominance and Superiority*: This class action is appropriate for certification  
 4 because questions of law and fact common to the members of the Class predominate over  
 5 questions affecting only individual members, and a Class action is superior to other available  
 6 methods for the fair and efficient adjudication of this controversy, since individual joinder of all  
 7 members of the Class is impracticable. Should individual Class members be required to bring  
 8 separate actions, this Court and/or courts throughout Washington would be confronted with a  
 9 multiplicity of lawsuits burdening the court system while also creating the risk of inconsistent  
 10 rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which  
 11 inconsistent results will magnify the delay and expense to all parties and the court system, this  
 12 class action presents far fewer management difficulties while providing unitary adjudication,  
 13 economies of scale and comprehensive supervision by a single court.  
 14  
 15

16                   **ESTOPPEL FROM PLEADING AND TOLLING OF**  
 17                   **APPLICABLE STATUTES OF LIMITATIONS**

18       68. Defendants are estopped from relying on any statutes of limitation or repose by  
 19 virtue of its acts of fraudulent concealment, which include Defendants' intentional concealment  
 20 from Plaintiffs and the general public that their Product was defective, while continually  
 21 marketing the firearm as a durable and suitable product.

22       69. Given Defendants' failure to disclose this known but non-public information about  
 23 the defective nature of the Product – information over which it had exclusive control – and  
 24 because Plaintiffs and Class Members therefore could not reasonably have known that the  
 25 firearms were defective, Defendants are estopped from relying on any statutes of limitations or  
 26

1 repose that might otherwise be applicable to the claims asserted herein.

2 **COUNT I**  
3 **VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT**  
4 **Wash. Rev. Code Ann. § 19.86.010 et seq.**

5 70. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and  
6 incorporate by reference all allegations contained in the foregoing paragraphs as though fully set  
7 forth herein.

8 71. This cause of action is brought pursuant to the Washington Consumer Protection  
9 Act, Wash. Rev. Code Ann. § 19.86.010 *et seq.* (the “WCPA”). The stated purpose of the WCPA  
10 is “to complement the body of federal law governing restraints of trade, unfair competition and  
11 unfair, deceptive, and fraudulent acts or practices in order to protect the public and foster fair and  
12 honest competition.” Wash. Rev. Code Ann. § 19.86.920.

13 72. Wash. Rev. Code Ann. § 19.86.020 declares unlawful “Unfair methods of  
14 competition and unfair or deceptive acts or practices in the conduct of any trade or commerce ...”

15 73. Plaintiffs and all Class Members of the Washington Class are “persons” and the  
16 transactions at issue in this Complaint constitute “trade or commerce” as defined by Wash. Rev.  
17 Code Ann. § 19.86.010.

18 74. Defendants violated WCPA by engaging in the unfair and deceptive actions and/or  
19 omissions as described herein by engaging in unfair or deceptive acts or practices that occurred in  
20 trade or commerce, had an impact on public interest, and caused injury to property.

21 75. In violation of WCPA, Defendants employed fraud, deception, false promise,  
22 misrepresentation and the knowing concealment, suppression, or omission of material facts in  
23 their sale and advertisement of the Product in the State of Washington.

1           76. Defendants engaged in the concealment, suppression, or omission in violation of  
2 the WCPA when, in selling and advertising the Product, they (1) represented that the Product was  
3 free of defects and would not fire without a trigger pull when, at best, it lacked credible evidence  
4 to support those claims, and, at worse, knew the Product was, in fact, defective in that it has the  
5 propensity to fire without a trigger pull, was not suitable to be used for its intended purpose, and  
6 otherwise was not as warranted and represented by Defendants; (2) failed to disclose to, or  
7 concealed from, consumers material facts about the defective nature of the Product; and (3) failed  
8 to disclose its own knowledge of the defective nature of the Product when Defendants knew that  
9 there were defects in the firearms which would result in damage and harm.  
10

11           77. Defendants engaged in the concealment, suppression, or omission of the  
12 aforementioned material facts with the intent that others, such as Plaintiffs, Class Members of the  
13 Washington Class, and/or the general public would rely upon the concealment, suppression, or  
14 omission of such material facts and purchase Defendants' Product with said design defect.  
15

16           78. The concealment, suppression, or omission of the aforementioned material facts  
17 had the capacity to and did so deceive a substantial portion of the public including the members of  
18 the class into believing the Product was free of defects.  
19

20           79. Plaintiffs and Class Members of the Washington Class would not have purchased  
21 the Product had they known or become informed of the material defects.  
22

23           80. Defendants' concealment, suppression, or omission of material facts as alleged  
24 herein constitutes unfair, deceptive and fraudulent business practices within the meaning of the  
25 WCPA.  
26

          81. Defendants have acted unfairly and deceptively by misrepresenting the quality,  
safety and reliability of the Product.

1           82. Defendants either knew, or should have known, that the Product was defectively  
2 designed and/or manufactured and would fire without a trigger pull, which would result in  
3 damage to property and injury.

4           83. Upon information and belief, Defendants knew that, at the time the Product left  
5 Defendants' control the Product contain the defect described herein resulting in a misfire. At the  
6 time of sale, the Product contained design and construction defects. The defects reduced the  
7 effectiveness and performance of the Product and rendered it unable to perform the ordinary  
8 purposes for which it was used as well as cause the resulting damage described herein.

9           84. As a direct and proximate cause of the violation of WCPA, described above,  
10 Plaintiffs and members of the Washington Class have been injured in that they have purchased  
11 firearms with the defective trigger based on nondisclosure of material facts alleged above. Had  
12 Plaintiffs and Class Members of the Washington Class known the defective nature of the trigger,  
13 they would not have purchased Product.

14           85. Defendants used unfair methods of competition and unfair or deceptive acts or  
15 practices in conducting their businesses. This unlawful conduct is continuing, with no indication  
16 that Defendants will cease.

17           86. Defendants' actions in connection with the manufacturing and distributing of the  
18 Product as set forth herein evidences a lack of good faith, honesty in fact and observance of fair  
19 dealing so as to constitute unconscionable commercial practices, in violation of the WCPA,  
20 Wash. Rev. Code Ann. § 19.86.010 *et seq.*

21           87. Defendants acted willfully, knowingly, intentionally, unconscionably and with  
22 reckless indifference when it committed these acts of consumer fraud.  
23  
24  
25  
26

88. Said acts and practices on the part of Defendants were and are illegal and unlawful pursuant to Wash. Rev. Code Ann. § 19.86.020.

89. As a direct and proximate result of Defendants' violations of Wash. Rev. Code Ann. § 19.86.010 *et seq.*, Plaintiffs have suffered damages. Plaintiffs are entitled to actual damages, including but not limited to the difference in value between the Product as it was originally delivered and as it should have been delivered, equitable and declaratory relief, punitive damages, treble damages, costs and reasonable attorney's fees.

**COUNT II**  
**VIOLATION OF THE NORTH CAROLINA UNFAIR AND DECEPTIVE TRADE**  
**PRACTICES ACT CONSUMER PROTECTION ACT**  
**N.C. Gen. Stat. § 75-1.1 *et seq.***

90. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporated by reference all allegations contained in the foregoing paragraphs as though fully set forth herein.

91. This cause of action is brought pursuant to the North Carolina Consumer Protection Act, N.C. Gen. Stat. § 75-1.1 *et seq.* (the “NCUDAP”).

92. N.C. Gen. Stat. § 75-1.1 states “Unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are declared unlawful.”

93. Defendants violated NCUDAP by engaging in the unfair and deceptive actions and/or omissions as described herein by engaging in unfair or deceptive acts or practices that occurred in trade or commerce, had an impact on public interest, and caused injury to property.

94. In violation of NCUDAP, Defendants employed fraud, deception, false promise, misrepresentation and the knowing concealment, suppression, or omission of material facts in

1 their sale and advertisement of the Product in the State of North Carolina.

2 95. Defendants engaged in the concealment, suppression, or omission in violation of  
3 the NCUDAP when, in selling and advertising the Product, they (1) represented that the Product  
4 was free of defects and would not fire without a trigger pull when, at best, it lacked credible  
5 evidence to support those claims, and, at worse, knew the Product was, in fact, defective in that it  
6 has the propensity to fire without a trigger pull, was not suitable to be used for its intended  
7 purpose, and otherwise was not as warranted and represented by Defendants; (2) failed to disclose  
8 to, or concealed from, consumers material facts about the defective nature of the Product; and (3)  
9 failed to disclose its own knowledge of the defective nature of the Product when Defendants knew  
10 that there were defects in the firearms which would result in damage and harm.  
11

12 96. Defendants engaged in the concealment, suppression, or omission of the  
13 aforementioned material facts with the intent that others, such as Plaintiff, Class Members of the  
14 North Carolina Class, and/or the general public would rely upon the concealment, suppression, or  
15 omission of such material facts and purchase Defendants' Product with said design defect.  
16

17 97. The concealment, suppression, or omission of the aforementioned material facts  
18 had the capacity to and did so deceive a substantial portion of the public including the members of  
19 the class into believing the Product was free of defects.  
20

21 98. Plaintiff and Class Members of the North Carolina Class would not have  
22 purchased the Product had they known or become informed of the material defects.

23 99. Defendants' concealment, suppression, or omission of material facts as alleged  
24 herein constitutes unfair, deceptive and fraudulent business practices within the meaning of the  
25 NCUDAP.  
26



1           100. Defendants have acted unfairly and deceptively by misrepresenting the quality,  
2 safety and reliability of the Product.

3           101. Defendants either knew, or should have known, that the Product was defectively  
4 designed and/or manufactured and would fire without a trigger pull, which would result in  
5 damage to property and injury.  
6

7           102. Upon information and belief, Defendants knew that, at the time the Product left  
8 Defendants' control the Product contain the defect described herein resulting in a misfire. At the  
9 time of sale, the Product contained design and construction defects. The defects reduced the  
10 effectiveness and performance of the Product and rendered it unable to perform the ordinary  
11 purposes for which it was used as well as cause the resulting damage described herein.  
12

13           103. As a direct and proximate cause of the violation of NCUDAP, described above,  
14 Plaintiff and members of the North Carolina Class have been injured in that they have purchased  
15 firearms with the defective trigger based on nondisclosure of material facts alleged above. Had  
16 Plaintiff and Class Members of the North Carolina Class known the defective nature of the  
17 trigger, they would not have purchased Product.

18           104. Defendants used unfair methods of competition and unfair or deceptive acts or  
19 practices in conducting their businesses. This unlawful conduct is continuing, with no indication  
20 that Defendants will cease.  
21

22           105. Defendants' actions in connection with the manufacturing and distributing of the  
23 Product as set forth herein evidences a lack of good faith, honesty in fact and observance of fair  
24 dealing so as to constitute unconscionable commercial practices, in violation of the NCUDAP,  
25 N.C. Gen. Stat. § 75-1.1 *et seq.*  
26

1 106. Defendants acted willfully, knowingly, intentionally, unconscionably and with  
2 reckless indifference when it committed these acts of consumer fraud.

3 107. Said acts and practices on the part of Defendants were and are illegal and unlawful  
4 pursuant to N.C. Gen. Stat. § 75-1.1 *et seq.*

5 108. As a direct and proximate result of Defendants' violations of N.C. Gen. Stat. § 75-  
6 1.1 *et seq.*, Plaintiff has suffered damages. Plaintiff is entitled to actual damages, including but  
7 not limited to the difference in value between the Product as it was originally delivered and as it  
8 should have been delivered, equitable and declaratory relief, punitive damages, treble damages,  
9 costs and reasonable attorney's fees.  
10

11 **COUNT III**  
12 **STRICT PRODUCTS LIABILITY**  
13 **(DESIGN DEFECT, MANUFACTURING DEFECT AND FAILURE TO WARN)**

14 109. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and  
15 incorporate by reference all allegations contained in the foregoing paragraphs as though fully set  
16 forth herein.

17 110. At all relevant times, Defendants were engaged in the business of manufacturing  
18 Remington Model 700 bolt action rifles with the patented Walker Fire Control, which is the  
19 subject of this action.

20 111. The Product was expected to and did reach Plaintiffs and the Class without  
21 substantial change to the condition in which it was designed, manufactured and sold by  
22 Remington.  
23

24 112. The Product sold to Plaintiffs and the Class Members properties was and is  
25 defective and unfit for its intended use. The use of the Product has caused and will continue to  
26 cause property damage and physical injury to Plaintiffs and the Class.

1           113. The Product was so defective in design or formulation or manufacture that when it  
2 left the hands of Defendants, the foreseeable risks exceeded the benefits associated with the  
3 design, formulation or manufacture of Remington Firearms.

4           114. At all times herein mentioned, the Product was in a defective condition and unsafe,  
5 and Defendants knew, or had reason to know, or should have known that the Product was  
6 defective and unsafe, especially when used in the form and manner as provided by Defendants.  
7

8           115. Plaintiffs and the Class Members utilized the Product for the purposes and manner  
9 normally intended.

10           116. Defendants had a duty to create a product that was not unreasonably dangerous for  
11 its normal, intended use and would not result in injury to Plaintiffs and Class Members.

12           117. Plaintiffs and the Class, acting as reasonably prudent people, could not have  
13 discovered that Defendants' Product was defective as herein mentioned or perceive its danger.  
14

15           118. The Product designed, manufactured, warranted, advertised and sold by  
16 Defendants was defective due to inadequate warnings or instructions and/or inadequate testing.

17           119. By reason of the foregoing, Defendants are strictly liable to Plaintiffs and the Class  
18 for designing, manufacturing, and selling the Product.

19           120. Plaintiffs, on behalf of themselves and all others similarly situated, demand  
20 judgment against the Defendants for compensatory damages for themselves and each member of  
21 the Class, for the establishment of the common fund, plus attorney's fees, interest and costs.  
22  
23  
24  
25  
26

**COUNT IV**  
**NEGLIGENCE**

121. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained in the foregoing paragraphs as though fully set forth herein.

122. Defendants had a duty to Plaintiffs and the Class to exercise reasonable and ordinary care in the formulation, testing, design, manufacture, and marketing of the Product.

123. Defendants breached their duty to Plaintiffs and the Class by designing, manufacturing, advertising and selling to Plaintiffs and the Class a product that is defective and has the propensity to fire without a trigger pull, and by failing to promptly remove the Product from the marketplace or to take other appropriate remedial action.

124. Defendants knew or should have known that the Product was defective, had the propensity to fire without a trigger pull, and otherwise was not as warranted and represented by Defendants.

125. As a direct and proximate cause of Defendants' negligence, Plaintiffs and the Class have suffered actual damages in that they purchased a product that is defective and that has the propensity to fire without a trigger pull. This defect has rendered the Product valueless and has caused, and will continue to cause, Plaintiffs and the Class to incur expenses repairing or replacing the Product.

126. Plaintiffs on behalf of themselves and all others similarly situated, demand judgment against Defendants for compensatory damages for himself and each member of the Class, for establishment of a common fund, plus attorney's fees, interest and costs.

**COUNT V**  
**VIOLATION OF MAGNUSON-MOSS ACT**

127. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained in the foregoing paragraphs as though fully set forth herein.

128. The Magnuson-Moss Consumer Products Liability Act, 15 U.S.C §2301, et seq. (“MMCPWA” or the “Act”) provides a private right of action to purchasers of consumer products against retailers who, *inter alia*, fail to comply with the terms of a written warranty, express warranty and/or implied warranty.

129. Plaintiffs and the Class are “consumers” as defined in 15 U.S.C. § 2301(3).

130. Product is a “consumer product” as defined in 15 U.S.C. § 2301(1).

131. Defendants are “warrantors” as defined in 15 U.S.C. § 2301(5).

132. Defendants provided Plaintiffs and the Class with "written warranties" within the meaning of 15 U.S.C. § 2301(6).

133. These written warranties include Defendant’s warranty which provided with the product sold to Plaintiffs and other members’ of the Class, which states that Defendant warrants to the original purchaser of a new firearm that “your Remington firearm will be free from defect in material and workmanship.” In the event a defect is found the purchaser must return the gun to the factory or an authorized warranty repair center at their own cost. Defendants then have the option to” repair the defect(s) or replace the firearm at no cost to you.”

134. Defendants have failed to remedy the defects of the Product despite knowledge of its dangerous condition and propensity to discharge with a trigger pull. Additionally, several Class Members have been required to pay a fee for both shipping and a replacement trigger once they

1 notified Defendants of the defect present in the Product.

2 135. Defendants have been given a reasonable opportunity by Plaintiffs and other Class  
3 members to cure such failures and to comply with the warranty yet have repeatedly failed to so.

4 136. Plaintiffs and the other members of the Class have suffered damages as a direct  
5 and proximate result of Defendants' breach of warranty.

6 137. As demonstrated above, Defendants failed to comply with the terms of their  
7 warranties - written, express and implied - with regard to the Product that they manufactured,  
8 advertised, distributed, marketed and/or sold.

9 138. By virtue of the foregoing, Plaintiffs and other members of the Class are entitled to  
10 an award of damages and other appropriate relief, including attorneys' fees.

11  
12 **COUNT VI**  
13 **BREACH OF EXPRESS WARRANTY**

14 139. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and  
15 incorporate by reference all allegations contained in the foregoing paragraphs as though fully set  
16 forth herein.

17 140. Defendants expressly warranted that the Product is fully warranted against defects  
18 in workmanship and materials under normal use and service." Defendants agreed "to repair the  
19 defect(s), or replace the firearm AT NO COST TO YOU." (emphasis in original).

20 141. The Product, however, contains defects as alleged herein, resulting in a misfire  
21 when the trigger is not pulled. This defect is due to fundamental design and manufacturing errors  
22 well within the Defendants' area of experience and is present when the Product leaves the  
23 Defendants' control.  
24  
25  
26

1           142. When Plaintiffs made a warranty claim and provided notice to Defendants of the  
2 defects in his firearm, Defendants stated that Plaintiffs would be required to incur additional out  
3 of pocket expenses for payment of replacement trigger.

4           143. Accordingly, Defendants failed to remedy the defective trigger as set forth in its  
5 warranty.  
6

7           144. The limitations of damages and the limitations contained in the express warranty  
8 provisions are harsh, oppressive and one-sided. The limitations related to the amount of damages,  
9 the type of remedies available to Plaintiffs and Class Members are unconscionable when  
10 Defendants knew or should have known that there are defects in the design and manufacturing of  
11 the Product.

12           145. Upon information and belief, Defendants knew that the triggers had a history of  
13 misfires, resulting in injury, death, and damage to other property, yet Defendants failed and  
14 omitted to inform its distributors, its customers, Plaintiffs and Class Members who purchased  
15 their Product.  
16

17           146. In light of the foregoing, Defendants' warranty failed its essential purpose and/or is  
18 unconscionable; therefore, Defendants' warranty with Plaintiffs and the Class was breached.

19           147. Also, Defendants' failure to remedy the defective triggers and all associated  
20 damages constitutes a breach of express warranty.  
21

22           148. The foregoing breaches of express warranty at issue were substantial factors in  
23 causing damages to Plaintiffs and Class Members.

24           149. As a result of the foregoing, Plaintiffs and the members of the Class have suffered  
25 damages (in the form of, inter alia, out-of-pocket expenditures for replacement of Walker  
26 Triggers) that were directly and proximately caused by the defective design and construction of

1 the Remington Product.

2 **COUNT VII**  
3 **BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY**

4 150. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and  
5 incorporate by reference all allegations contained in the foregoing paragraphs as though fully set  
6 forth herein.

7 151. At all times mentioned herein, Defendants designed, manufactured and sold the  
8 Remington Model 700 bolt action rifle with the patented Walker Fire Control, and prior to the  
9 time said Product was purchased by Plaintiffs, Defendants impliedly warranted to Plaintiffs and to  
10 Plaintiffs' agents, that the Product was of quality and fit for the use for which it was intended.

11 152. Plaintiffs and Plaintiffs' agents relied on the skill and judgment of the Defendants  
12 in using the aforesaid Product.

13 153. The Product was unfit for its intended use and it was not of merchantable quality,  
14 as warranted by Defendants, in that it had propensities to break down (i.e., fire without a trigger  
15 pull) and fail to perform and protect when put to its intended use. The aforesaid product caused  
16 Plaintiffs to sustain damages as herein alleged.

17 154. Defendants designed and manufactured the Product using a defective trigger  
18 assembly. Defendants designed, manufactured, sold and placed the Product into the stream of  
19 commerce knowing and expecting that the Product would be used by consumers and around  
20 members of the general public. Defendants knew, or should have known, that its Product had a  
21 propensity to fire without a trigger pull.

22 155. After Plaintiffs were made aware of their damages as a result of the aforesaid  
23 Product, notice was duly given to Defendants of the breach of said warranty.  
24  
25  
26



156. Defendants failed to provide adequate remedy and caused its implied warranties to fail of their essential purpose, thereby permitting remedy under implied warranties.

157. As a direct and proximate result of the breach of said warranties, Plaintiffs and the Class members have suffered and will continue to suffer loss as alleged herein in an amount to be determined at trial.

158. Plaintiffs, on behalf of themselves and all others similarly situated, demand judgment against Defendants for compensatory damages for himself and each member of the Class, for the establishment of the common fund, plus attorney's fees, interest and costs.

**COUNT VIII**  
**FRAUDULENT CONCEALMENT**

159. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and incorporate by reference all allegations contained in the foregoing paragraphs as though fully set forth herein.

160. At all times mentioned herein, Defendants, through their experience, were in a position of superiority to Plaintiffs and the class members and as such had the duty and obligation to disclose to Plaintiffs the true facts and their knowledge concerning the Product; that is that said product was defective, had the propensity to fire without a trigger pull, and otherwise were not as warranted and represented by Defendants. Defendants made the affirmative representations as set forth in this Complaint to Plaintiffs, the Class, and the general public prior to (and after) the date Plaintiffs purchased the Product, while at the same time concealing the material defects described herein. All of these facts were material to consumers' (such as Plaintiffs') purchase decisions.

161. The material facts concealed or not disclosed by Defendant to Plaintiffs and the Class are material facts in that a reasonable person would have considered those facts to be

1 important in deciding whether or not to purchase Defendants' Product.

2 162. At all times mentioned herein, Defendants intentionally, willfully, and maliciously  
3 concealed or suppressed the facts set forth above from Plaintiffs and with the intent to defraud as  
4 herein alleged.

5 163. At all times mentioned herein, Plaintiffs and members of the Class reasonably  
6 relied on Defendants to disclose those material facts set forth above. If Defendants had disclosed  
7 the above facts to Plaintiffs and the Class and had they been aware of said facts, they would have  
8 either negotiated a lower price to reflect the risk or simply avoided the risk all together by  
9 purchasing a different rifle.  
10

11 164. Defendants continued to conceal the defective nature of their Product even after  
12 members of the Class began to report problems. Indeed, Defendants continue to cover up and  
13 conceal the true nature of the problem.  
14

15 165. As a result of the previous and continued concealment or suppression of the facts  
16 set forth above, Plaintiffs and the Class members sustained damages in an amount to be  
17 determined at trial.

18 **COUNT IX**  
19 **UNJUST ENRICHMENT**

20 166. Plaintiffs, individually, and on behalf of all others similarly situated, adopt and  
21 incorporate by reference all allegations contained in the foregoing paragraphs as though fully set  
22 forth herein.

23 167. Substantial benefits have been conferred on Defendants' by Plaintiffs and the Class  
24 and Defendants have appreciated these benefits.  
25  
26

1 168. Defendants' acceptance and retention of these benefits under the circumstances  
2 make it inequitable for Defendants to retain the benefits without payment of the value to the  
3 Plaintiffs and the Class.

4 169. Defendants by the deliberate and fraudulent conduct complained of herein, have  
5 been unjustly enriched in a manner that warrants restitution.  
6

7 170. As a proximate consequence of Defendants' improper conduct, the Plaintiffs and  
8 the Class members were injured. Defendants have been unjustly enriched, and in equity, should  
9 not be allowed to obtain this benefit.

10 **COUNT X**  
11 **DECLARATORY RELIEF**

12 171. Plaintiff, individually, and on behalf of all others similarly situated, adopts and  
13 incorporates by reference all allegations contained in the foregoing paragraphs as though fully set  
14 forth herein.

15 172. Defendants acted or refused to act on grounds that apply generally to the  
16 Declaratory Relief Class, so that final injunctive relief or corresponding declaratory relief is  
17 appropriate respecting the Class as a whole within the meaning of Fed. R. Civ. P. 23.  
18

19 173. Plaintiff seeks a declaration that:

20 174. All Remington Model 700 bolt action rifle with the patented Walker Fire Control  
21 have defects which cause them to fire without a trigger pull;

22 175. All Remington Model 700 bolt action rifle with the patented Walker Fire Control  
23 have a defect in workmanship and material that causes failures;  
24

25 176. Defendants knew of the defects in their Remington Model 700 bolt action rifle  
26 with the patented Walker Fire Control; and

1 177. Defendants shall issue a recall of all Remington Model 700 bolt action rifles with  
2 the patented Walker Fire Control.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiffs, William G. Moodie and James. W. Waterman, on behalf of  
5 themselves and all others similarly situated, pray for a judgment against Defendants as follows:  
6

7 A. Enter an Order certifying the proposed Class (and subclasses, if applicable),  
8 designating Plaintiffs as the named Class Representatives of the Class, and designating the  
9 undersigned as Class Counsel;

10 B. Declare that Defendants are financially responsible for notifying all Class  
11 members of the problems with the Remington Model 700 bolt action rifle with the patented  
12 Walker Fire Control;

13 C. Enter an Order enjoining Defendants from further deceptive advertising,  
14 marketing, distribution, and sales practices with respect to the Remington Model 700 bolt action  
15 rifle with the patented Walker Fire Control, and requiring Defendants to repair and/or replace  
16 Plaintiffs' and Class members' Remington Model 700 bolt action rifle with the patented Walker  
17 Fire Control with a suitable alternative rifle of Plaintiffs' and Class members' choosing;  
18

19 D. Enter an award in favor of Plaintiffs and the Class that includes compensatory,  
20 exemplary or punitive damages, and statutory damages, including interest thereon, in an amount  
21 to be proven at trial;

22 E. Declare that Defendants must disgorge, for the benefit of the Class, all or part of  
23 the ill-gotten profits it received from the sale of the Remington Model 700 bolt action rifle with  
24 the patented Walker Fire Control, or order Defendants to make full restitution to Plaintiffs and  
25 the members of the Class;  
26

- 1 F. Enter an award of attorneys' fees and costs, as allowed by law;
- 2 G. Enter an award of pre-judgment and post-judgment interest, as provided by law;
- 3 H. Grant Plaintiff and the Class leave to amend the Complaint to conform to the
- 4 evidence produced at trial; and
- 5
- 6 I. Grant such other or further relief as may be appropriate under the circumstances.

7 **DEMAND FOR JURY TRIAL**

8 Plaintiffs, William G. Moodie and James W. Waterman, hereby demand a trial by jury on

9 all claims so triable.

10 Dated: January 29, 2013

**KELLER ROHRBACK L.L.P.**

11

12 By: /s/ Lynn Lincoln Sarko  
Lynn Lincoln Sarko, WSBA # 16569  
13 Mark A. Griffin, WSBA # 16296  
1201 Third Avenue, Suite 3200  
14 Seattle, WA 98133  
Telephone: (206) 623-1900  
15 Facsimile: (206) 623-3384  
Email: lsarko@kellerrohrback.com  
16 mgriffin@kellerrohrback.com

17 Jordan L. Chaikin  
18 Florida Bar Number 0878421  
**PARKER WAICHMAN LLP**  
3301 Bonita Beach Road, Suite 101  
19 Bonita Springs, FL 34134  
20 Telephone: (239) 390-1000  
Facsimile: (239) 390-0055  
21 Email: jchaikin@yourlawyer.com

22 Jon D. Robinson  
23 Christopher Ellis  
**BOLEN ROBINSON & ELLIS, LLP**  
202 South Franklin, 2<sup>nd</sup> Floor  
24 Decatur, IL 62523  
Telephone: (217) 429-4296  
25 Facsimile: (217) 329-0034  
Email: jrobinson@brelaw.com  
26 cellis@brelaw.com

1 John R. Climaco  
2 John A. Peca  
3 **CLIMACO, WILCOX, PECA, TARANTINO &**  
4 **GAROFOLI Co., LPA**  
5 55 Public, Suite 1950  
6 Cleveland, OH 44113  
7 Telephone: (216) 621-8484  
8 Facsimile: (216) 771-1632  
9 Email: jrclim@climacolaw.com  
10 japeca@climacolaw.com

11 Richard Arsenault  
12 **NEBLETT, BEARD & ARSENAULT**  
13 2220 Bonaventure Court  
14 Alexandria, LA 71301  
15 Telephone: (800) 256-1050  
16 Email: rarsenault@nbalawfirm.com

17 Eric D. Holland  
18 R. Seth Crompton  
19 **HOLLAND, GROVES, SCHNELLER &**  
20 **STOLZE, LLC.**  
21 300 North Tucker Boulevard, Suite 801  
22 St. Louis, MO 63101  
23 Telephone: (314) 241-8111  
24 Facsimile: (314) 241-5554  
25 Email: eholland@allfela.com  
26 scrompton@allfela.com

Charles E. Schaffer  
**LEVIN, FISHBEIN, SEDRAN & BERMAN**  
510 Walnut Street, Suite 500  
Philadelphia, PA 19106  
Telephone: (215) 592-1500  
Facsimile: (215) 592-4663  
Email: cschaffer@lfsblaw.com

Richard Ramler  
**RAMLER LAW OFFICE, P.C.**  
202 West Madison Avenue  
Belgrade, MT 59714  
Telephone: (406) 924-4810  
Facsimile: (406) 388-6842  
Email: richardramler@aol.com

1 Timothy W. Monsees  
2 **MONSEES, MILLER, MAYER, PRESLEY &**  
3 **AMICK, P.C.**  
4 4717 Grand Avenue, Suite 820  
5 Kansas City, MO 64112  
6 Telephone: (866) 774-3233  
7 Facsimile: (816) 361-5577  
8 Email: tmonsees@mmmpalaw.com

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*Counsel for Plaintiffs*

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

WILLIAM G. MOODIE and JAMES W. WATERMAN, on behalf of themselves and all others similarly situated

(b) County of Residence of First Listed Plaintiff Snohomish County, WA  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Lynn Lincoln Sarko, WSBA # 16569 & Mark Griffin, WSBA # 16296  
Keller Rohrbach L.L.P., 1201 Third Avenue, Suite 3200, Seattle, WA  
98133, Phone: (206) 623-1900

**DEFENDANTS**

REMINGTON ARMS COMPANY, LLC.,  
SPORTING GOODS PROPERTIES, INC.  
and E.I. DU PONT NEMOURS AND COMPANY

County of Residence of First Listed Defendant Rockingham County, NC  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input checked="" type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. § 2301-Magnuson-Moss Warranty Act

Brief description of cause:

Class action asserting unfair and deceptive trade practices in connection with the patented Walker Fire Control

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

Over \$5,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/29/2013

SIGNATURE OF ATTORNEY OF RECORD

s/ Lynn Lincoln Sarko

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# United States District Court

for the  
Western District of Washington

WILLIAM G. MOODIE and JAMES W.  
WATERMAN, on behalf of themselves  
and all others similarly situated

\_\_\_\_\_  
*Plaintiff*

v.

REMINGTON ARMS COMPANY, LLC.,  
SPORTING GOODS PROPERTIES, INC.  
and E.I. DU PONT NEMOURS AND  
COMPANY

\_\_\_\_\_  
*Defendant*

Civil Action No. \_\_\_\_\_

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Remington Arms Company, LLC c/o CT Corporation System  
505 Union Avenue Southeast, Suite 120  
Olympia, WA 98501

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) - or \_\_\_\_ days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Lynn Lincoln Sarko & Mark Griffin  
Keller Rohrback L.L.P  
1201 Third Avenue, Suite 3200  
Seattle, WA 98133 Phone: (206) 623-1900

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: 1/29/2013

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

PROOF OF SERVICE

***This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1)***

This summons for *(name of individual and title, if any)* \_\_\_\_\_

was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons and complaint on the individual at *(place)*

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons and complaint at the individual's residence or usual place of abode with *(name)*

\_\_\_\_\_, a person of suitable age and discretion who resides there,

on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons and complaint on *(name of individual)* \_\_\_\_\_

who is designated by law to accept service of process on behalf of *(name of organization)*

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.

# United States District Court

for the  
Western District of Washington

WILLIAM G. MOODIE and JAMES W.  
WATERMAN, on behalf of themselves  
and all others similarly situated

\_\_\_\_\_  
*Plaintiff*

v.

REMINGTON ARMS COMPANY, LLC.,  
SPORTING GOODS PROPERTIES, INC.  
and E.I. DU PONT NEMOURS AND  
COMPANY

\_\_\_\_\_  
*Defendant*

Civil Action No. \_\_\_\_\_

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Sporting Goods Properties, Inc. c/o The Corporation Trust Company  
Corporation Trust Center, 1209 Orange Street  
Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) - or \_\_\_\_ days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Lynn Lincoln Sarko & Mark Griffin  
Keller Rohrback L.L.P  
1201 Third Avenue, Suite 3200  
Seattle, WA 98133 Phone: (206) 623-1900

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: 1/29/2013

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

PROOF OF SERVICE

***This section should not be filed with the court unless required by Fed. R. Civ. P. 4(1)***

This summons for *(name of individual and title, if any)* \_\_\_\_\_

was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons and complaint on the individual at *(place)*

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons and complaint at the individual's residence or usual place of abode with *(name)*

\_\_\_\_\_, a person of suitable age and discretion who resides there,

on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons and complaint on *(name of individual)* \_\_\_\_\_

who is designated by law to accept service of process on behalf of *(name of organization)*

\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.

# United States District Court

for the  
Western District of Washington

WILLIAM G. MOODIE and JAMES W.  
WATERMAN, on behalf of themselves  
and all others similarly situated

\_\_\_\_\_  
*Plaintiff*

v.

REMINGTON ARMS COMPANY, LLC.,  
SPORTING GOODS PROPERTIES, INC.  
and E.I. DU PONT NEMOURS AND  
COMPANY

\_\_\_\_\_  
*Defendant*

Civil Action No. \_\_\_\_\_

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

E.I. Du Pont Nemours and Company c/o CT Corporation System  
400 Cornerstone Drive, Suite 240  
Williston, CT 05495

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) - or \_\_\_\_ days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address is:

Lynn Lincoln Sarko & Mark Griffin  
Keller Rohrback L.L.P  
1201 Third Avenue, Suite 3200  
Seattle, WA 98133 Phone: (206) 623-1900

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

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\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.