

Class action filed against gun manufacturer for defective trigger

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EL DORADO, Ark. - Texas lawyers are seeking class action status for a lawsuit recently filed in Arkansas which alleges some Remington rifles contain defective triggers.

Seeking more than \$5 million in damages, attorneys from Dallas and Houston filed a suit on behalf of David Russell Rodgers and others similarly situated against Remington Arms Co. on Dec. 10 in the El Dorado Division of the Western District of Arkansas.

On behalf of the proposed class, the plaintiff alleges that Model 700 Remingtons contain a "dangerously defective 'Walker' fire control system that may (and often does) fire without a trigger pull upon release of the safety, movement of the bolt, or when jarred or bumped."

If certified, the class will include those individuals who have purchased a new Remington model 700 bolt action rifle that contains a Walker control fire system within the last five years or who currently own the gun. The lawsuit will not include any claims of personal injury.

Rodgers, the named plaintiff, purchased his Model 700 Remington bolt action rifle on Dec. 12, 2006, for more than \$400.

The lawsuit alleges that Remington negligently continues to place the Walker fire control design in guns, although it has designed a new trigger mechanism that is installed into some of its other rifles.

The complaint argues that Remington is strictly liable because the gun "was not merchantable and reasonably suited to the use intended at the time of its manufacture or sale."

Further, the plaintiff states he had a reasonable expectation that the gun would not fire unless the trigger was engaged.

The plaintiff also states that he did not have a reason to suspect that the rifle was unreasonably dangerous because Remington allegedly failed to warn of the gun's dangerous condition.

According to the lawsuit, the trigger has an internal component called a connector that floats on top of the trigger body inside the rifle. It is only bound to the trigger by spring tension. When the trigger is pulled, the connector is pushed forward, allowing the sear to fall and the gun to fire.

After each firing, during the recoil action, the connector separates from the trigger body and creates a gap between the two parts. During the separation, dirt, debris or even manufacturing scrap can become lodged in the space and prevent the connector from returning to its original position.

The lawsuits allege that if the connector is not in the original position, the gun can fire without the trigger being pulled, including when the safety is released, the bolt is closed or when the bolt is opened.

However, according to an internal Remington memo, to make a gun malfunction the owner must place the safety between the "safe" and "fire" positions, pull the trigger, and then place the safety in the "fire" position. In cases of improperly maintained guns, when this sequence is done the safety may act as a trigger and cause the gun to engage, court papers say.

According to the allegations, the defendant has known of the defect for 60 years, has more than 4,000 documented complaints of unintended discharge and has paid more than \$20 million in settlements to "injured consumers" since 1993.

The plaintiffs allege that the defendant will not recall the millions of defective rifles because of financial strain and a "profits over safety" mentality.

"This 'profits over people' or 'profits over safety' mentality is exactly the conduct that this action is designed to prevent," the complaint states.

"No government agency can force Remington to recall its product, and Remington has made its internal customer service advisors aware of that fact. It is only through the court system that Remington may be made to answer for its product," the lawsuit states.

According to court documents, the Walker fire control is still in use in military rifles and Model 770s.

Class counsel includes Crossett, Ark., attorney Gary Draper of Griffin, Rainwater and Draper PLLC; Houston attorney Adam Voyles of Heard, Robins, Cloud, Black and Lubel LLP; Dallas attorney Stephen Drinnon of The Drinnon Law Firm PLLC; and Dallas attorney Jeffrey W. Hightower Jr. of the Hightower Law Firm.

U.S. District Judge Harry F. Barnes will preside over the litigation.

Case No 1:2009cv01054