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Federal Court

Lawsuits allege rifles had defective triggers resulting in misfires, injuries

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MARSHALL - A New Mexico resident and a Colorado resident believe they own rifles that have a tendency to unexpectedly discharge due to a defective trigger.

Attempting to unload a Remington 700 rifle, New Mexico resident George Montes was injured when the rifle fired, throwing the bolt back and hitting his eye.

When a hunting buddy was attempting to unload his Remington 700 rifle and he opened the bolt, the gun fired, sending a bullet through a tree and into Hartmut Wright's back.

Hartmut Wright and George Montes filed identical lawsuits against Remington Arms Co. Inc. on Sept. 30 in the Marshall Division of the Eastern District of Texas.

Although the plaintiffs are not Texas residents and the defendant is a Delaware corporation with its principal office in North Carolina, the complaints state the Eastern District of Texas is the proper venue because "Remington was doing business in the state of Texas by selling, manufacturing and distributing rifles through its distributors and sales force."

"When Mr. Montes lifted the bolt or otherwise tried to unload the weapon, and without pulling the trigger, the rifle fired, blowing the bolt back and injuring Mr. Montes eye," the lawsuit states.

Similarly, Wright, from Colorado, states that his hunting buddy "attempted to open the bolt or otherwise unload the weapon" and without pulling the trigger, the rifle fired.

The plaintiffs allege that the both models of the guns 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."

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Montes purchased his Remington 700 PSS in April 1993. The gun at issue in the Wright lawsuit was manufactured in March 1980.

The lawsuits allege that Remington continues to place the "Walker" fire control design although it has designed a new trigger mechanism that is installed into some of its rifles.

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

The plaintiffs state that they expected that the gun would not fire unless the trigger was engaged. They claim they had no reason to suspect that the rifles were unreasonably dangerous because Remington failed to warn of the guns' dangerous condition.

Montes and Wright allege that Remington was negligent in selecting the trigger mechanism design.

According to the complaints, 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 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, bolt is closed or when the bolt is opened.

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

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

"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.

Montes and Wright are seeking damages for mental anguish, physical pain and suffering, loss of earnings and medical expenses.

Seeking punitive damages, the plaintiffs argue that Remington is aware of the risk of the fire control mechanism but "nevertheless proceeded with conscious indifference to the rights, safety, and welfare of others."

"Remington's actions clearly reflect willful misconduct, malice, fraud, wantonness, oppression, or an entire want of care that raises a presumption of conscious indifference to consequences," the complaints state.

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

Remington responded to similar allegations in Shooting Industry magazine released in 1993, the article stated that "Virtually any firearm ever produced, by any manufacturer, can be made to fire without a direct pull on the trigger if the firing mechanism is altered in some way. And, although Remington has examined rifles returned from the field that would accidentally discharge under some circumstances, it has always been due to alteration of the trigger mechanism, broken parts, or abuse, such as rust or an accumulation of improper lubricant. In no case, has Remington ever seen a Model 600 or Model 700 rifle, properly used and reasonably cared for in the field that would accidentally fire."

The company states that as with any gun, age, wear and contaminates may cause older guns to have more problems than newer ones. It says the two underlying lessons and important safety rules for gun owners: always keep a gun pointed in a safe direction and never depend on the safety.

Dallas attorney Stephen W. Drinnon of The Drinnon Law Firm PLLC and Jeffrey W. Hightower Jr. of the Hightower Law Firm in Dallas is attorney in charge for the plaintiffs. Stephen W. Drinnon of the Drinnon Law Firm PLLC is also representing the plaintiffs.

U.S. District Judge T. John Ward is assigned to both litigations.

Montes vs Remington, Case No 2:09cv00296

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