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IN THE GENERAL COURT OF JUSTICE
 SUPERIOR COURT DIVISION

CARLETTA MCNEIL,) STATE OF NORTH CAROLINA
 ADMINISTRATOR for and on)
 behalf of THE ESTATE OF) COUNTY OF MECKLENBURG
 JASMINE THAR (decedent),)
 JAHMESHIA MCMILLIAN and,)
 TREKA MCMILLIAN,)
 Individually,)
)
 Plaintiffs,)
)
 vs.) CASE NO. 13-CvS-21261
)
 REMINGTON ARMS COMPANY,)
 LLC,)
)
 Defendant.)

ORAL VIDEOTAPED DEPOSITION
 JOHN T. BUTTERS
 MAY 14, 2015

ORAL VIDEOTAPED DEPOSITION OF JOHN T. BUTTERS,
 produced as a witness at the instance of the Defendant
 and duly sworn, was taken in the above-styled and
 numbered cause on the 14th day of May, 2015, from
 9:19 a.m. to 5:11 p.m., before Melinda Barre, Certified
 Shorthand Reporter in and for the State of Texas,
 reported by computerized stenotype machine at the
 offices of The Chaffin Law Firm, 4265 San Felipe,
 Suite 1020, Houston, Harris County, Texas, pursuant to
 the Federal Rules of Civil Procedure and the provisions
 stated on the record or attached hereto.

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 18
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 21
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1 THE VIDEOGRAPHER: Good morning. Today is
 2 Thursday, May 14th, 2015. The time is 9:19 a.m. We are
 3 now on the record. This is the deposition of Tom
 4 Butters in the case of McNeil versus Remington Arms.
 5 You may proceed.
 6 MR. WILLS: Would you swear the witness,
 7 please.
 8 JOHN T. BUTTERS,
 9 having been first duly sworn, testified as follows:
 10 EXAMINATION
 11 QUESTIONS BY MR. WILLS:
 12 Q. Good morning, Mr. Butters.
 13 A. Morning, Dale.
 14 Q. You have been hired by Mr. Chaffin and Mr. Gary
 15 or both as an expert witness in the McNeil versus
 16 Remington case. Is that correct?
 17 A. Yes, sir.
 18 Q. And you have provided disclosures, be they oral
 19 or written, to Mr. Gary and Mr. Chaffin about certain
 20 expert opinions you've formed in this case. Is that
 21 correct?
 22 A. Yes, sir.
 23 Q. You've reviewed, I understand, the deposition
 24 of Mr. Anthony Blackwell?
 25 A. Yes.

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1 Q. Did you review the video of his deposition as
 2 well?
 3 A. Yes.
 4 Q. And you've reviewed the depositions of
 5 Mr. Ronkainen and Mr. Watkins from Remington, right?
 6 A. That's correct.
 7 Q. Did you review their videos as well?
 8 A. I viewed the video of Mr. Ronkainen. I don't
 9 believe I have a video of Watkins.
 10 Q. In the course of your work as an expert in this
 11 case, have you also reviewed the North Carolina law
 12 enforcement reports about the Jasmine Thar and McNeil
 13 shooting?
 14 A. Yes.
 15 Q. Have you reviewed the reports from the Federal
 16 Bureau of Investigation about that shooting?
 17 A. Yes.
 18 Q. Based on your review in this case, there was a
 19 round in the chamber of the rifle at the time of the
 20 occurrence, correct?
 21 A. Yes.
 22 Q. How did that round come to be in the chamber of
 23 the rifle?
 24 A. I don't think anybody knows. I certainly
 25 don't.

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1 Q. Do you know how long that round had been in the
2 chamber of the rifle before the time of the event?
3 A. No. And I don't think anybody else really
4 knows.
5 Q. Is it your understanding based on your review
6 of Mr. Blackwell's deposition and his statements to law
7 enforcement that when he was taking the rifle out of the
8 case at the time of the occurrence, he thought the rifle
9 was unloaded?
10 A. Yes. He thought it was inert. He didn't think
11 it would fire under those circumstances.
12 Q. But is it your recollection from his testimony
13 that he, in fact, thought the rifle was unloaded?
14 A. I don't believe he thought there was any
15 cartridges, live cartridges, in the rifle anywhere.
16 Q. Based on your review, what did Mr. Blackwell
17 think the position of the safety was as he began to pull
18 the rifle out of the case?
19 A. He states he believed it to be in the safe
20 mode.
21 Q. Have you formed an opinion based on everything
22 that you've reviewed as to the position of the safety on
23 the rifle when Mr. Blackwell began to pull the rifle out
24 of the case?
25 A. Yes. The most likely condition of the safety,

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1 I have an opinion on that.
2 Q. And what is that?
3 A. That it was probably in the fire position.
4 Q. And do you know how long the safety on the
5 rifle had been in the fire position?
6 A. No. And I don't think anybody else does.
7 Q. Do you know who put the safety in the safe
8 position or in the fire position? I'm sorry.
9 A. In the fire position, no.
10 Q. Do you have any information that anyone other
11 than Anthony Blackwell was responsible for loading the
12 round that was in the chamber?
13 A. I have no information that would give me a
14 definite indication as to who did it. It's my
15 understanding that Mr. Blackwell stored the rifle in the
16 case in what he believed to be an unloaded condition.
17 And then it remained there without his attention at all
18 until the day of the incident.
19 And sometime between the placement of the
20 rifle in the closet and the time the rifle discharged on
21 the day of the incident it was loaded and armed.
22 Q. And do you have any information or opinion
23 about who armed the rifle during that time period?
24 A. No.
25 Q. In your opinion, if the rifle had been stored

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1 with the safety of the rifle engaged in the safe
2 position and Mr. Blackwell pulled the rifle out of the
3 case, as he has described in his deposition, in the same
4 manner --
5 A. And demonstrated on the video.
6 Q. Right.
7 -- would the rifle have fired at the time
8 of the occurrence?
9 A. No.
10 Q. And obviously if the round had not been loaded
11 into the chamber sometime prior, the rifle also would
12 not have been fired?
13 A. That's correct. If it ain't loaded, it won't
14 shoot.
15 Q. And if either one of those things had happened,
16 if the rifle were empty or the safety were on, Jasmine
17 Thar and the other women who were injured in this
18 shooting would not have been hurt, correct?
19 A. Correct.
20 Q. Now, Mr. Butters, you were provided, I think,
21 with -- or advised by Mr. Chaffin that you were supposed
22 to either beforehand or today provide your file of your
23 work in the McNeil case, right?
24 A. Yes.
25 Q. And Mr. Chaffin was kind enough to provide us

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1 with a number of the materials from your file a week or
2 so ago before the deposition, and we'll go over some of
3 those. But you've also brought a briefcase here today
4 with some file materials on the McNeil case, right?
5 A. Yes, sir. That's my total file material on
6 this particular pair of matters, which includes the Edge
7 matter.
8 Q. Okay. Well, we'll just talk about McNeil for
9 now. We're going to do Edge in a shorter deposition
10 later.
11 A. Correct. But what I gave you has both.
12 Q. I understand. There are some of the things in
13 the briefcase that you brought here of your file that I
14 have not seen before. So I just want to cover those
15 very briefly, and we'll mark those. And at the end of
16 this we'll work with the reporter to get copies because
17 I don't have copies right now but we'll get them later.
18 Is that fair enough?
19 A. Very well.
20 Q. First of all, I'm going to mark as Exhibit
21 Butters 300 -- and is it okay if I put exhibit stickers
22 on your originals?
23 A. Sure. Go right ahead.
24 Q. The first thing I'm marking as Butters 300 is
25 your new file matter form, right?

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1 A. That's right. It's my new file form that I use
2 to open a particular file in my records.
3 (Exhibit 300 marked)
4 Q. (By Mr. Wills) Okay. And that's what you use
5 to record information provided to you upon the opening
6 of any new file, be it a Remington case, a truck case,
7 an oil rig case. You create this kind of file?
8 A. That's exactly right. It assigns the number
9 and orderly enters the information that is necessary to
10 commence work on the file.
11 Q. I'm just going to read from it. And if you
12 need to look at it, you tell me; and I'll pass it down
13 to you since we just have the original here. But it
14 says Date Received, 13 December, 2013. Does that sound
15 about right?
16 A. That sounds correct.
17 Q. It says Company Name. That's who hired you.
18 Here it says the law firm of Gary, Williams, Parenti,
19 Watson & Gary, correct?
20 A. Yes.
21 Q. Out of Florida?
22 A. Yes.
23 Q. And where it says Date, 23rd December, 2011,
24 you understood that to be the date of the occurrence,
25 right, December 23rd, 2011?

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1 A. Yes. That's correct.
2 Q. That's recorded here. And is this all in your
3 handwriting?
4 A. Pardon me? This is all in any handwriting.
5 Q. Okay. And was this initial contact by
6 telephone, I take it?
7 A. Yes.
8 Q. It was not an in-person meeting or anything
9 like that?
10 A. No.
11 Q. It was over the phone?
12 A. It was a telephonic communication.
13 Q. And do you have any information about how
14 Mr. Gary or his law firm came to get in touch with you
15 about this, how they got your name?
16 A. No.
17 Q. Okay.
18 A. My name is out there. I do not advertise, but
19 I am known as one who has addressed matters of this
20 nature in the past.
21 Q. Under the Name or Style, that is what you
22 understand to be essentially the name of the case,
23 right?
24 A. Yeah. That was what I was given.
25 Q. Okay. And here it says, State of North

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1 Carolina, Mecklenburg County, Superior Court. And it
2 has a bunch of plaintiffs versus Remington, right?
3 A. Yes.
4 Q. And then it says Description. That's something
5 that's pretyped on your form. And it says,
6 "Consultation with regard to a reported discharge of a
7 Remington M700 .308W caliber tactical rifle in the
8 absence of a depressed trigger that resulted in the
9 death of one person and the injury of two others.
10 Review evidence provided to include forensic lab report
11 and the subject rifle and advice."
12 You understood that to be the scope of
13 your consultation?
14 A. That was my commission in the matter.
15 Q. And that was the commission you received as of
16 the time of the opening of this new matter in December
17 of 2013?
18 A. Yes.
19 Q. At some point -- and I already have a copy of
20 this, but I see the original here -- you provided a
21 letter to Mr. Gary dated March 31, 2014. We've already
22 got that marked. Let me find it on the exhibit list
23 here.
24 MR. WILLS: Can you pull up 95H?
25 (Exhibit 95H marked)

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1 Q. (By Mr. Wills) I've given you a copy of it as
2 well. Exhibit 95H is a copy of the letter you sent to
3 Mr. Gary on March 31, 2014, right?
4 A. Yes.
5 (Exhibit 301 marked)
6 Q. (By Mr. Wills) And all I want to talk to you
7 about right now is from your file Butters 301 is the
8 original of that, right?
9 A. Yes. That's it.
10 Q. In looking at Exhibit 301, it looks like
11 there's some kind of impressed stamp on the bottom, does
12 it not?
13 A. Yes.
14 Q. And what's the significance of that stamp?
15 A. That is an official act on my part. That is my
16 registered professional engineer seal that is assigned
17 to me when I perform an official act.
18 Q. Okay. And what about this letter in particular
19 was an official act in your view as a professional
20 engineer?
21 A. Because it was in response to your demand
22 placed on the Gary firm to produce the substance of my
23 testimony intended and potential in the matter. And
24 that particular communication is there, and it should be
25 there in front of you.

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1 Q. It is.
2 A. It's from the Gary office.
3 Q. It is.
4 A. And it was in response to a -- I think you've
5 got it on your right-hand side.
6 Q. I've got it. I'm going to give it to you in a
7 second. I guess my question was --
8 A. But I was just answering what you wanted to be
9 done. This was in response to your demand on the Gary
10 firm.
11 (Exhibit 302 marked)
12 Q. (By Mr. Wills) Okay. I'm going to show you
13 what we've marked as Exhibit 302 from your file and ask
14 you if that is the interrogatory that Remington
15 propounded that the Gary firm was responding to?
16 A. Yes. This is the one that the representative
17 of the Gary firm, whom I believe to be a legal assistant
18 in Gary's office, transmitted to me and I was required
19 to respond to.
20 Q. Okay.
21 MR. WILLS: Let's pull up, if you would,
22 Exhibit 95F, please.
23 (Exhibit 95F marked)
24 Q. (By Mr. Wills) Mr. Butters, I'm showing you
25 what is 95F. Does that appear to be kind of a cover

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1 e-mail from the Gary law firm to you enclosing that
2 interrogatory that we just discussed and sending it to
3 you?
4 A. Those were my instructions in order to comply
5 with Remington's demand on the Gary firm.
6 Q. Okay. And attached to that was this
7 interrogatory we just looked at, interrogatory 9 marked
8 as 302, right?
9 A. Yes. I received that. Now, what number is
10 that that you have in your left hand?
11 Q. 302.
12 A. 302. Well, 302 was the one that I received and
13 95H is the -- or what I've got here in front of me as
14 95H is the response thereto.
15 Q. Okay. And that's the order you received them
16 in. You got the request from the law firm along with
17 Remington's interrogatory; and in response to that, you
18 sat down and prepared 95H?
19 A. That's correct.
20 Q. And put your official seal on it?
21 A. That's correct.
22 Q. Does the seal constitute any kind of -- as a
23 professional engineer, any kind of certification of any
24 opinions expressed therein?
25 A. It indicates that I am acting in a professional

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1 character. It is not an off-the-cuff or incidental
2 communication. It is an official communication that I
3 consider to be important and was critical enough to
4 require my certification.
5 Q. In terms of timing, this certification and
6 opinions set out in Exhibit 95H were provided by you
7 about just over three weeks after you participated in
8 the inspection and testing of the rifle involved in the
9 McNeil case, right?
10 A. It appears to be so.
11 Q. Okay. Because that was on March 4th, 2014 here
12 in Houston at Anderson Labs?
13 A. That is correct.
14 Q. Okay. We'll come back to all those later. So
15 you can just hold on to them or whatever you want to do
16 with them.
17 MR. WILLS: I'll ask the court reporter on
18 300, 302, 301, we'll get copies when we get done.
19 (Exhibit 304 marked)
20 Q. (By Mr. Wills) Mr. Butters, I'm going to show
21 you what we marked as Exhibit 304. That's also from
22 your file here today. I don't think I've seen that
23 before. Could you just tell us what that is?
24 A. That's correct. This is a personal
25 communication to Willie Gary that accompanied my invoice

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1 for activity in the matter up to the date of apparently
2 the 12th of March of 2014, which included the Anderson
3 Lab exam in Houston.
4 Q. And for the record what does it -- it's not
5 that long. What does it say there?
6 A. It says, "Dear Willie, anticipating no further
7 activity in the tragic matter of the death of Jasmine
8 Thar, I am submitting an invoice for activity and
9 expenses to date. Thank you for the courtesy and
10 compliment of engaging my services. Regards and best
11 wishes, Tom."
12 Q. Okay. Thank you.
13 Mr. Butters, stapled on the inside of this
14 folder that you provided us looks like a
15 time-and-expense record, two sheets, on this case,
16 right?
17 A. Yeah.
18 Q. Okay. I'm just going to mark that as
19 Exhibit 305, those two pages, and ask when we're done
20 here the court reporter to make a copy of that for the
21 record.
22 (Exhibit 305 marked)
23 Q. (By Mr. Wills) Is that current through today?
24 A. Yesterday.
25 Q. Through yesterday or up to yesterday?

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<p>1 A. No. It's through yesterday. I recorded 2 yesterday afternoon at the end of my consultations 3 with -- 4 Q. Roberto? 5 A. Yes. With Mr. Chaffin. And I'm trying to 6 think whether I added anything else. In addition, there 7 is a \$12.75 dinner salad that I listed on there as well. 8 Q. You probably had to buy dinner for both of you 9 with that 12.75. 10 MR. CHAFFIN: Mr. Butters is very frugal. 11 I'll tell you that. 12 Q. (By Mr. Wills) Would it be fair to say that all 13 of the hours of your work in this case to date are 14 recorded on these two sheets? 15 A. All those that I felt were appropriate to bill 16 for. 17 Q. Okay. 18 A. I've obviously spent more time. There's 19 conversations of 5, 10, 15, 20 minutes, maybe even a 20 half hour or more, that I did not charge for. But 21 that's my usual practice is that incidental 22 communications are often overlooked, and I provide those 23 for free. 24 Q. Okay. I'm going to hand you what I recognize 25 as your March 4th, 2014 notes from the rifle inspection.</p>	<p>1 Magazine for Professional Engineers, page 9, article 2 entitled "Low Bidders, Gross Negligence, Marketing 3 Lingo." 4 A. Yes. 5 Q. And you selected that and put it in your file, 6 correct? 7 A. Well, this is a page from the most recent 8 edition of my professional engineers society magazine. 9 And it caught my eye because Mr. Chaffin had indicated 10 that there was a question of negligence that would be 11 raised in the North Carolina case. 12 So it was interesting to me to see what 13 Art Schwartz had to say, who is the general counsel for 14 the National Society of Professional Engineers of which 15 I'm a senior member. 16 Q. Okay. 17 A. What the legal counsel for my professional 18 organization had to say concerning the definition of 19 negligence, both gross negligence and ordinary 20 negligence. 21 Q. Does that article address the legal definition 22 of negligence or gross negligence as it's applied under 23 North Carolina law? 24 A. I don't know. But it certainly toggled my 25 interest in that it seemed to say what negligence is</p>
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<p>1 Just tell me that that's correct, that's what this is. 2 A. This is correct. I acted for the recording 3 secretary for the joint examination of both the 4 Remington people and the plaintiffs' examination, too. 5 Q. Okay. I gave that to you so you could hold on 6 to that. 7 A. Very well. 8 Q. I've got a copy of that. And at some point 9 down the road when we're talking about your gun 10 examination notes, I want you to have your original in 11 front of you. 12 A. Yeah. This is original right here. 13 Q. All right. 14 A. It has not been modified, to my recollection, 15 at all since the date of the examination. 16 Q. March 4th, 2014? 17 A. That's right. I don't think anything's been 18 removed or added since that date, since item 6 was 19 written. 20 Q. Have you examined the Anthony Blackwell rifle 21 or any components of it since March 4, 2014? 22 A. No. 23 (Exhibit 306 marked) 24 Q. (By Mr. Wills) Also in your file I've marked as 25 Exhibit 306 is a torn-out page from the May 2015</p>	<p>1 with regard to the standing of the national society of 2 which I am a member. 3 Q. Okay. Thank you. 4 Also among the file materials that you 5 brought here today appears to me to be an X-Mark Pro 6 trigger mechanism. Could you just explain for us like 7 you did before we got started where you got this from? 8 A. You sent it to me. 9 Q. Not directly. 10 A. I understand it came from your hand to me by 11 mail or I think maybe FedEx or UPS or something in the 12 Pollard versus Remington class action suit that I was 13 engaged to consult in as well. 14 Q. And do you understand this trigger mechanism to 15 be an X-Mark Pro that was manufactured by Remington 16 after April of 2014 in accordance with the new 17 manufacturing process for X-Mark Pro triggers? 18 A. Right. It is the -- it conforms to the late 19 manufacturing instructions or process records -- I think 20 Remington calls those process records -- for the 21 assembly, testing and manufacture of that trigger group. 22 Q. How, if at all, are you relying on this trigger 23 mechanism for any opinions you have formed in the McNeil 24 case? 25 A. I'm not necessarily. It was in my files and I</p>

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1 brought it out of an abundance of caution so that you
2 would be given everything that I had that might be
3 appropriate for discussion in this pair of cases.
4 Q. And you have had this in your possession now
5 for how long?
6 A. Months.
7 Q. And you received it in connection with your
8 work, I believe you said, in the Pollard class action?
9 A. Yes.
10 Q. And have you examined this trigger mechanism?
11 A. Yes. I've looked at it.
12 Q. Under a microscope?
13 A. Yes.
14 Q. And have you functioned it, to the extent you
15 can?
16 A. I have not installed it in any action to check
17 its function, but I'll assure you it's clean as a
18 hound's tooth.
19 Q. Based on your examination and inspection of
20 this trigger mechanism, is this trigger mechanism, one
21 made after the institution of the recall, safe in design
22 and manufacture?
23 A. That is my understanding, that it is a
24 post-recall manufacture.
25 Q. And, in your opinion, in this condition as

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1 you've examined it, is this particular trigger mechanism
2 safe in design and manufacture?
3 A. It should be as long as it conforms to the
4 endurance test criteria that were made available to me
5 in the Pollard matter. You should have a copy of my
6 response to Mr. Robinson and Mr. Monsees in that matter.
7 Q. I do and we'll get to that later. Just based
8 on what you've seen of this particular fire control,
9 does it appear to you to be in a reasonably safe
10 condition?
11 A. It is a reasonable substitute for the
12 Walker/Haskell patented trigger, which is not as
13 reliable as this particular trigger.
14 As I indicated to you, the first time that
15 I ever saw an XMP trigger, I do not believe it to be --
16 have its safety reset action, its trigger reset action,
17 appropriately linked to the operation of the rifle.
18 Instead of it being located, as I was
19 interested in at that time -- and I hope that you
20 remember. It's been nine, ten years ago, I suspect,
21 that I first saw it. And we saw the preliminary
22 pre-production versions of it.
23 It seemed to me at that time to be a
24 better designed trigger in many ways than the
25 Walker/Haskell. But its reset function was, in my

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1 opinion, faultily chosen.
2 Q. Let me ask you this, Mr. Butters: If this
3 trigger mechanism, this post-recall trigger mechanism,
4 had been in the Anthony Blackwell rifle at the time he
5 pulled it out of the case, would it have fired under the
6 circumstances you believe existed?
7 A. No. I don't think it would have.
8 Q. Did you observe any excess Loctite in this
9 trigger mechanism?
10 A. No, I did not.
11 Q. Did you look for it?
12 A. Yes.
13 Q. Loctite is a -- well, tell me what you
14 understand Loctite to be.
15 A. Loctite is an anaerobic compound, anaerobic
16 adhesive, that is available in a variety of formulations
17 that is used to retain threads and other close-fitting
18 assemblies in a fixed position so that they will neither
19 vibrate nor be moved from their as-applied condition
20 with the Loctite thread blocker or --
21 Q. Thread locker?
22 A. Yeah. Unless it's desired.
23 Q. Would you agree that Loctite in the use you
24 just described is often referred to by engineers and
25 others as a thread locker?

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1 A. Yes.
2 Q. And have you used the Loctite in your own
3 personal experience or professional experience as a
4 thread locker?
5 A. I have used Loctite for in excess of 50 years
6 as least.
7 Q. In what context?
8 A. Many contexts. I used to use it on the intake
9 manifolds of race cars, which had a tendency to be
10 subjected to vibration which would result in the
11 loosening of the fasteners that held the intake
12 manifolds in place.
13 There generally was not provision for any
14 other kind of locking mechanism, and a judicious
15 application of Loctite to the threads and the threaded
16 fasteners that held on -- those assemblies on race cars,
17 which are subjected to a considerable amount of
18 vibration and impact, in place so they wouldn't loosen
19 up and you wouldn't have problems with carburetion,
20 et cetera.
21 And then also rifles. I used to use -- I
22 generally maintain three kinds of Loctite and have three
23 kinds of Loctite available in my toolkit and shop
24 storage right now.
25 Q. What three --

<p style="text-align: right;">Page 29</p> <p>1 A. But I use it to lock sight bases in place on 2 rifles so that they wouldn't loosen up and impair the 3 sighting function of rifles. 4 I have used it on cattle waterers which 5 are subjected to a lot of motion and disturbance of the 6 parts. So you want to keep them in place. 7 Q. Okay. 8 A. And that's what that material is supposed to 9 do. 10 Q. All right. You said the material is anaerobic. 11 What does anaerobic mean? 12 A. It means that it requires that the atmosphere 13 be excluded from where it is intended to cure before it 14 will cure properly. 15 Q. And if the atmosphere is not excluded, what 16 effect does that have on the Loctite itself? 17 A. It probably won't work the way you want it to. 18 It remains gummy and it may not stay on the surfaces. 19 If you let air stay on it, it's not going to cure 20 properly. And if it doesn't cure properly, it won't 21 maintain its properties that ensure that it requires a 22 minimal amount of torque to loosen the threaded 23 fasteners or force to displace the close-fitting parts 24 that you wish to remain in precise location with respect 25 to one another.</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. Okay. Do you have any information about the 2 purpose for the use of Loctite by Remington on the 3 blocker screw of the subject rifle? 4 A. Yes. It is obvious to me that it was intended 5 that the Loctite compound that was employed was designed 6 to prevent the backing out of the screw or the change of 7 its adjustment from its positioning at the time of 8 manufacture at the factory. 9 Q. Okay. Where else on the X-Mark Pro did 10 Remington use Loctite to secure any screws? 11 A. Yes. 12 Q. Where else? 13 A. It used -- on the trigger and sear engagement 14 screw. And I believe it may also have used some on the 15 trigger pull before it was sealed, although they may not 16 have. I don't recall the precise details. But 17 certainly on the trigger/sear engagement screw, the 18 so-called trigger engagement. 19 Q. And the Loctite is placed on that screw so that 20 its relationship to the trigger and, hence, the 21 engagement, doesn't change once the Loctite cures? 22 A. That's correct. It's supposed to be set under 23 an optical comparator so that it has a specific overlap 24 or engagement between trigger and sear active surfaces. 25 It is not intended that that be changed.</p>
<p style="text-align: right;">Page 30</p> <p>1 Q. You have reviewed in the course of your work in 2 this case, and I believe probably reviewed them back 3 when you were working on some of the Walker fire control 4 cases, developmental records about the X-Mark Pro for 5 Remington? 6 A. I've done what, now? 7 Q. You've reviewed Remington's developmental 8 records when they were developing the X-Mark Pro? 9 A. Yes, yes. 10 Q. And what is your understanding of the purpose 11 of the blocker screw in the design of the X-Mark Pro? 12 A. The blocker screw ensures the appropriate 13 adjustment of the trigger reset action that is caused by 14 the motion of the safety lever, which is supposed to 15 push the tip of the blocker screw on the front face of 16 the trigger and thereby ensure that the trigger 17 reassumed a minimum of, I think -- the number that 18 sticks in my mind is about 70 percent of the standard 19 specification for trigger/sear engagement. 20 Q. With respect to the Blackwell rifle made in 21 2009, what is your understanding as to, according to 22 Remington's manufacturing processes, Loctite was to be 23 used on that blocker screw? 24 A. You'll have to ask that again. That was a 25 little confusing.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Let me see if I understand the process for the 2 setting of these screws and see if you agree or 3 disagree. 4 On both of these screws uncured Loctite is 5 applied to the screws, the screws are inserted in the 6 fittings -- 7 A. Spacer block. 8 Q. Spacer block. 9 A. Yes. 10 Q. And then their position is set and adjusted as 11 the operator wants to set it? 12 A. That's correct. And there's a locking nut 13 there as well. 14 Q. Right. But they get the adjustment they want 15 made before the Loctite cures and sets? 16 A. Absolutely, correct. 17 Q. And that's the way it's intended to work? 18 A. That's correct. 19 Q. And then after those settings are made for the 20 correct trigger reset and for the correct sear 21 engagement, is it your understanding that the trigger 22 mechanisms are then allowed to have the Loctite cure? 23 A. Yeah. There's a 24-hour period at room 24 temperature that they maintain these before they perform 25 any more tests or manipulations that might disturb the</p>

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1 setting of those screws.
2 Q. Now, let's talk about the trigger engagement
3 screw for a second. On a Walker fire control that screw
4 is not set by Loctite, is it?
5 A. No. It is generally sealed in place. Now,
6 there were a number of Walker/Haskell patent triggers
7 that I know to have been sent to Australia that required
8 a staking operation in the threads at the head of the
9 screw once they were in place.
10 And the Australian government said it's
11 too easy to move those things and cause an unreliable
12 mechanism. So stake it.
13 Q. Okay.
14 A. Deform the metal so that you cannot move the
15 engagement after it's set at the factory. But
16 everything else that I know of has been placed and
17 then -- used Duco cement for a while.
18 Q. And Duco cement on the head of the trigger
19 engagement screw on a Walker fire control sold in these
20 United States just goes over the head of the screw,
21 right?
22 A. That's correct. It's airplane glue to
23 determine whether or not somebody's monkeyed with it.
24 Q. And it is not intended to act as a thread
25 locker, is it, that Duco cement?

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1 A. No. It does perform a certain interference to
2 the movement of the screw. But I would think that it is
3 primarily -- if I wanted it locked in place, I really
4 wouldn't depend on Duco. I don't mind it being there,
5 but I don't think you can depend on it as a real thread
6 locker. So it's primarily an indication of whether or
7 not there's been alteration post manufacture.
8 (Exhibit 1 marked)
9 Q. (By Mr. Wills) Okay. Mr. Butters, I have in
10 front of you Butter Exhibit 1, which is an Exhibit A to
11 your deposition notice for today, Exhibit 1. And I just
12 want to go over not all of these but some of the items
13 you were asked to -- or we asked to have provided at the
14 deposition today. I want to go over that for a second.
15 A. Sure.
16 Q. You've seen this before, I take it?
17 A. Yes, I have.
18 Q. Did you go over this previously with
19 Mr. Chaffin in preparation for your deposition?
20 A. Yes. Prior to the deposition, well ahead of
21 it, this was addressed in order that you would get all
22 of the materials that at least I had.
23 Q. Right.
24 A. And hopefully that he had that would be
25 responsive to your request for production that you would

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1 have at this deposition.
2 Q. Okay. Well, let's look at request No. 1 for a
3 second. There we asked for production of all
4 correspondence, letters, memoranda and e-mails to the
5 deponent from any person and to any person from the
6 deponent regarding X-Mark Pro trigger mechanisms
7 including, but not limited to, the 2014 recall of rifles
8 containing X-Mark Pro trigger mechanisms and any alleged
9 accidental discharges of rifles containing the X-Mark
10 Pro trigger mechanisms. You've seen that before?
11 A. Yes.
12 Q. And today, as I understand it, you brought me
13 all of your correspondence and materials requested here
14 concerning the Thar case or the McNeil case, right?
15 A. Everything that I have.
16 Q. And also -- we'll find out later, but you've
17 also produced everything here relating to your work in
18 the William Edge case?
19 A. Yes. Although they are largely overlapping.
20 Q. Right.
21 A. I mean, it's --
22 Q. I get that.
23 A. It's, like, how do you separate the sugar from
24 the coffee after you've mixed them together? They're
25 just impossible to separate.

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1 Q. I get that. That's why the Edge deposition is
2 going to be much shorter.
3 A. Yes.
4 Q. But I guess my question is: Do you have any
5 correspondence, letters, memoranda and e-mails about
6 X-Mark Pro trigger mechanisms other than those that
7 you've produced here today concerning Thar, McNeil and
8 Edge?
9 A. Does that exclude anything that I might have
10 been provided in the Pollard class action suit?
11 Q. Well, let's set the Pollard class action suit
12 aside for a minute.
13 A. Right.
14 Q. Let's talk about other --
15 A. I have some of those materials, but I did not
16 feel that it was within my authority --
17 Q. To produce it?
18 A. -- to provide those. And I requested that
19 Mr. Chaffin communicate with Mr. Robinson and
20 Mr. Monsees in order to supply you with everything that
21 you I think probably should have in your files with
22 regard to that anyway.
23 Q. All right. I'm not concerned about Pollard,
24 what you may have with regard to the Pollard case.
25 A. Yeah. But I want to make sure that you know

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1 that I --
2 Q. You do have materials from Pollard, and they're
3 not here.
4 A. -- did my best to comply.
5 Q. And I get that.
6 A. Okay.
7 Q. Here's my question: Apart from McNeil, Edge
8 and Pollard, do you have any correspondence, letters,
9 memoranda or e-mails to or from anybody regarding X-Mark
10 Pro trigger mechanisms?
11 A. No. What kind of communications? Say like
12 published materials, et cetera?
13 Q. Any kind of e-mail or letter that you may have
14 sent to or received from, say --
15 A. No. You have everything that I have. You have
16 everything I have, and you probably have more than what
17 I have because you have the benefit of materials that
18 have been sent by the plaintiffs' attorneys that I did
19 not have copies of necessarily.
20 Q. For example, do you have any e-mails or
21 correspondence between you and Mr. Belk regarding X-Mark
22 Pro trigger mechanisms?
23 A. No, no. Not with regard to any of these cases.
24 We have corresponded over the years with regard to the
25 X-Mark Pro, but I don't have anything from Jack. I

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1 don't know that he's got anything from me. I don't have
2 anything from him.
3 Q. Okay. Well, let's talk about your
4 communications with him over the years about X-Mark Pro.
5 Do you have correspondence and e-mails to and from
6 Mr. Belk unrelated to these cases?
7 A. I don't think so. I don't think so.
8 Q. Have you looked for that, though, in responding
9 to this?
10 A. Yeah. Well, one thing that would lead me to
11 believe I don't have any is that in the very recent past
12 over the last three or four weeks my e-mail server has
13 been changed. And in the process of them changing my
14 server, they proceeded to flush everything that I had in
15 the memories of that server. So if I had something,
16 it's gone; and I don't have it now. And I probably
17 didn't have much then.
18 Q. Do you have any e-mail or correspondence other
19 than what you've provided to me to date from Rex
20 McLellan about X-Mark Pro trigger mechanisms?
21 A. No. I haven't communicated with Rex at all in
22 that.
23 Q. Have you been hired to consult on any other
24 personal injury or death matters involving X-Mark Pro
25 trigger mechanisms other than McNeil and Edge?

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1 A. No.
2 Q. Have you examined any X-Mark Pro -- strike
3 that.
4 Have you examined any Remington rifles
5 with X-Mark Pro trigger mechanisms that were involved in
6 any alleged unintended discharges other than the
7 Blackwell rifle and the William Edge rifle?
8 A. No.
9 MR. WILLS: Let's take a short break.
10 THE VIDEOGRAPHER: Off the record at
11 10:09.
12 (Recess taken)
13 THE VIDEOGRAPHER: We're back on the
14 record at 10:26.
15 Q. (By Mr. Wills) Mr. Butters, earlier you
16 mentioned having three kinds of Loctite in your toolkit.
17 What kinds do you have?
18 A. Red, blue and green.
19 Q. Do you know what number designation they are?
20 A. I don't know. 200 series of some sort but
21 the -- as I remember, the red is -- it takes dynamite to
22 get loose. Blue is a little easier. And the green is
23 for use on places that require a -- the green is a
24 low-surface tension material that is -- that I got for
25 use on things that were already assembled.

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1 Q. Okay.
2 A. For example, the fore end of a National Match
3 MI rifle can loosen up. And a judicious application of
4 green Loctite to that wicks into the front band assembly
5 that supports it off the barrel. When it loosens up, it
6 ruins your accuracy. So that's for that purpose.
7 But the others are for general purpose.
8 If I want it to stay, I use one formulation. If I plan
9 on taking it apart anytime, I use another one that's
10 easier to get out.
11 Q. Okay. And as I understood what you were
12 saying, the one that you want to put it on a screw to
13 stay and not be any future changes in it would be the
14 red one?
15 A. I believe that's the case. I always read
16 what's on the tube to see which is which because -- I
17 don't use it very often very much. But when I do, I
18 want to make sure I use the right one.
19 Q. Okay. Have you ever had any experience or have
20 you ever used Loctite 660?
21 A. No. I never have.
22 Q. And you understand based on all the materials
23 you've reviewed in this case that the Blackwell rifle,
24 the blocker screw and the trigger engagement screw would
25 have been set by Remington using Loctite 660 at that

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<p>1 time? 2 A. Yes. I understand that formulation. 3 Q. Have you ever conducted before these cases any 4 testing on Loctite 660? 5 A. No. 6 Q. Since your work commenced in the Thar case, 7 have you done any testing of Loctite 660? 8 A. No, I have not. I have reviewed the Hessy 9 [sic] company standards and various testing that had 10 been done by Remington and communications regarding the 11 use of Loctite 660, but I have not done any personal 12 tests for that. 13 Q. So what I understand you to be saying is that 14 for -- in terms of any opinions you may have formed in 15 the McNeil case about Loctite 660, as far as those 16 opinions being based on or relying on any testing of 17 Loctite 660, the only testing of that material that you 18 are relying on would be Remington's testing? 19 A. Or that published by Hessy company would 20 presumably as a result of testing by them. 21 Q. You mean Henkel? 22 A. Is it Henkel? 23 Q. I think so. I think it's H-e-n-k-e-l. 24 A. That could be. It's whoever produces Loctite. 25 Q. Okay. And are you aware of any testing</p>	<p>1 conjunction with their investigation into the X-Mark 2 Pro? 3 A. Yes. On the rifles that have been returned 4 with complaints regarding their function. 5 Q. Okay. You've also reviewed the testing program 6 instituted by Remington where Derek Watkins was involved 7 after the Otto rifle was examined by him, right? 8 A. Yes. 9 Q. And what I'm referring to is the testing that 10 occurred in late March/early April of 2014 that 11 culminated in the recall. You reviewed that? 12 A. Yes. Where they placed the rifle in an 13 adjustable freezer compartment to maintain temperatures 14 at specific levels so that they could test the 15 performance at those levels of temperature. 16 Q. Okay. 17 A. That's the one that I saw. 18 Q. All right. Now, I'm kind of changing courses 19 here. Let's go back to Butters Exhibit 1, the rider to 20 the deposition notice. 21 MR. WILLS: If you could pull up Exhibit A 22 to that. 23 A. If this is 1, Exhibit A. 24 Q. (By Mr. Wills) This is Exhibit 1 but, yeah, 25 it's Exhibit A of Exhibit 1. Let's just finish going</p>
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<p>1 conducted by Hessy or Henkel with Loctite 660 in the 2 context of firearms? 3 A. No. 4 (Exhibit 27 marked) 5 MR. WILLS: Could you pull up Exhibit 27? 6 Q. (By Mr. Wills) I have in front of you, 7 Mr. Butters, Exhibit 27. First of all, do you recognize 8 that? 9 A. Yes. I've seen that. 10 Q. Okay. What do you understand that to be? 11 A. I beg your pardon? 12 Q. What do you understand that to be? 13 A. It is a product sheet that is associated with 14 that particular compounding of Loctite, Loctite 660 15 technical data sheet. 16 Q. Okay. 17 A. And it is Henkel company. Thank you for the 18 correction. 19 Q. That's all right. Other than this document, 20 are you aware of any other testing by Henkel in 21 connection with Loctite 660? 22 A. No. I have no Henkel test data. 23 Q. Okay. So, again, the only Loctite 660 testing 24 data that you are relying on for your opinions in this 25 case would be the testing conducted by Remington in</p>	<p>1 through some of these. 2 No. 2, your bills and invoices for your 3 work in this case and in Edge, we've got that. We'll go 4 over that in a little bit. 5 A. Yes. 6 Q. No. 4 asked for production of all articles and 7 publications including, but not limited to, 8 authoritative texts relied upon by the deponent in 9 forming his expert opinions in this action and in the 10 Edge action. 11 Are there any such articles and 12 publications? 13 A. I know of none that address the X-Mark Pro. 14 Q. Are there any articles and publications -- 15 strike that. 16 Are there any such articles and 17 publications that you are relying on for your expert 18 opinions in this case, though? 19 A. No. I don't think so. Everything has to do 20 with the specific rifles and their performance in this 21 matter and the Edge matter. 22 Q. Okay. As I understand it, your opinion in Thar 23 and in Edge in terms of what caused those guns to 24 discharge at the time relates to the presence of Loctite 25 660 in those mechanisms, right?</p>

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1 A. Uncured materials that caused intermittent
2 performance and unreliability in those rifles.
3 Q. Okay. Have you observed or seen any
4 Loctite 660 in any other Remington trigger mechanisms
5 besides the Anthony Blackwell rifle and the William Edge
6 rifle?
7 A. I've seen photographs of them, but I have not
8 seen in --
9 Q. In person, in the flesh?
10 A. -- in the round, as they say.
11 Q. Okay. And the photographs you've seen are the
12 photographs, the many photographs that Remington has
13 produced in discovery in this case?
14 A. That's correct. And those that have been
15 generated on the Edge and the --
16 Q. Blackwell?
17 A. -- the Blackwell rifle.
18 Q. Okay. Have you ever spoken or had any
19 communications with Mr. Blackwell?
20 A. No.
21 Q. Or Mr. Edge, William Edge?
22 A. No.
23 (Exhibit 1B marked)
24 Q. (By Mr. Wills) Okay. That's all I have on
25 that. On Exhibit 1B. Mr. Butters, I'm going to show

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1 you what we've marked as Exhibit 1B and represent to you
2 that this is plaintiff's expert witness disclosure in
3 the McNeil case that was provided by Mr. Chaffin on or
4 about February 13th, 2015. And if you'd turn to the
5 fourth page, expert witness No. 11 listed there is you,
6 correct?
7 A. Yes.
8 Q. Is it Tom T. Butters?
9 A. No. It's John T.
10 Q. It's Tom T. Hall. The singer is Tom T. Hall,
11 right?
12 A. I don't know a Tom T. Hall, but I am a John T.
13 Butters. I go by the name Tom.
14 Q. Right.
15 A. So I can see the confusion that might ...
16 Q. Looking at this page and the next page, I want
17 to go over for a few minutes here the expert disclosures
18 that have been made by the plaintiffs' counsel to
19 Remington about you in this case. Okay?
20 A. Very well.
21 Q. First of all, have you seen this disclosure
22 before?
23 A. Yes, I have.
24 Q. And when did you see it?
25 A. Oh, I have no idea.

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1 Q. Was it within the last couple months?
2 A. Yes. I would say it had to be.
3 Q. I don't want to belabor it, but it would be
4 fair to say that you had conversations with Mr. Chaffin
5 or others on the plaintiffs' side about what the
6 substance and basis of your opinions were?
7 A. That's right.
8 Q. Would that be fair?
9 A. Yes. But in order to cut across any confusion,
10 I have not had any communications with Mr. Gary's office
11 or their representatives since March of 2014.
12 Q. Okay. All of your communications about your
13 work in this case since March of 2014 have been with
14 Mr. Chaffin?
15 A. Correct.
16 Q. And you understood that Mr. Chaffin was
17 preparing on behalf of the plaintiffs a summary for
18 Remington of your opinions that you have formed in this
19 case, right?
20 A. I presume that he would be required to do so at
21 some point in time, but I had no knowledge of when that
22 was done.
23 Q. Have you prepared any written reports of your
24 own? I have your notes that you took at the gun exam.
25 But in terms of formal reports setting out your opinions

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1 and the bases for opinions, have you prepared anything
2 like that?
3 A. No. Nothing at this point in time. I have not
4 been requested to do so.
5 Q. Okay. The earlier exhibit, the one with the
6 March 31, 2014 letter to Mr. Gary that you had your
7 stamp on -- do you remember that?
8 A. That's correct.
9 Q. Have you put your official stamp as a
10 professional engineer on any other findings or reports
11 that you've made in the McNeil case?
12 A. No. Nor in the Edge case.
13 Q. Okay. All right. Now, let's just go through
14 some of the things here in Exhibit 11 that have been
15 disclosed to us and make sure there are no loose ends
16 here.
17 The first paragraph is basically answer to
18 No. 11 kind of just setting out your background, and
19 we're not going to go over that. You have a CV that
20 we've seen before, right?
21 A. Yes.
22 Q. The second paragraph, there's a listing there
23 of the things you have reviewed in reaching your
24 opinions; and I just want to go over those. No. 1,
25 "Examination of the rifle in question together with

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1 other experts in March of 2014."
2 A. That's correct.
3 Q. Just so we're clear, that's the March 4, 2014
4 exam at Anderson Labs?
5 A. Correct.
6 Q. And the other experts who were there were -- on
7 behalf of Remington there was Derek Watkins, Jim
8 Ronkainen, Seth Bredbury and Gary Fowler. Do you recall
9 that?
10 A. Yes. I don't know Mr. Fowler.
11 Q. Okay.
12 A. And I do not recall having had any interface
13 with Mr. Ronkainen. I'm sure he was there.
14 Q. Okay.
15 A. But I knew Bredbury, and I knew Watkins.
16 Q. Okay.
17 A. That's probably about all I paid attention to.
18 Q. Now, on behalf of the plaintiffs in addition to
19 you, there were other experts, right?
20 A. Yes.
21 Q. There was Mr. Jack Belk?
22 A. That's true.
23 Q. You understood he was there and had been
24 retained by the lawyers representing the plaintiffs,
25 right?

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1 A. Yes.
2 Q. And Mr. Rex McLellan?
3 A. Dr. Rex McLellan.
4 Q. Dr. Rex McLellan who is a metallurgist, right?
5 A. He's a material scientist, which includes
6 metallurgy.
7 Q. You have been involved in other litigation
8 cases involving other products before with both Mr. Belk
9 and Dr. McLellan. True?
10 A. Yes.
11 Q. Now, item No. 2 says you have reviewed product
12 service files of similar incidents as well as pleadings
13 from a similar incident in another pending Remington
14 case styled Edge v. Remington. Do you see that?
15 A. Yes.
16 Q. Those were product service files produced by
17 Remington in this lawsuit but provided to you in turn by
18 Mr. Chaffin?
19 A. That's correct.
20 Q. No. 3, "Review of videos produced and available
21 online by Michael Brees, Charles Young and J.R. Otto,
22 each of which depicts an XMP meeting factory specs but
23 actually firing without the trigger being pulled."
24 Do you see that?
25 A. Yes.

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1 Q. I take it you received those videos of those
2 people through Mr. Chaffin?
3 A. That's correct.
4 Q. Have you examined any of those three underlying
5 rifles: Brees, Young and Otto?
6 A. No, I have not.
7 Q. No. 4, you've reviewed manufacturing and
8 testing records produced by Remington including, but not
9 limited to, testing of XMP rifles prior to manufacturing
10 as well as manufacturing instructions, both prior and
11 subsequent to 2014?
12 A. Yes.
13 Q. Again, those are materials produced in
14 discovery by Remington?
15 A. Yes.
16 Q. No. 5, "Review of photos and video of Derek
17 Watkins performing multiples tests on XMP rifles at
18 Remington's facilities in Kentucky as well as the Edge
19 rifle."
20 Do you see that?
21 A. Yes. The Edge rifle examination video that I
22 recall that Watkins was in was here in Houston, I
23 believe at Mr. Chaffin's office. It appeared to be at
24 Mr. Chaffin's office. But the others were in
25 Elizabethtown, Kentucky.

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1 Q. No. 6, "Review of videos and photographs of XMP
2 rifles involved in the recall study including, but not
3 limited to, multiple videos showing unwanted trigger
4 movement such that the sear/trigger engagement was lost
5 in its entirety or severely compromised."
6 A. Yes. Those are the Remington high-speed videos
7 taken by Derek Watkins in Elizabethtown.
8 Q. In any of the functioning of the Blackwell
9 rifle that you conducted or observed or are aware of was
10 there ever any unwanted trigger movement which resulted
11 in loss of the sear/trigger engagement in its entirety
12 or severely compromised?
13 A. I have not seen any videos that document that.
14 Q. Have you seen any photographs that document it?
15 A. I have seen photographs that indicate to me
16 that at one point in time there must necessarily have
17 been liquid or semiliquid Loctite material on the face
18 of the blocker screw that was subsequently transferred
19 to the front face of the trigger.
20 Now, that particular material appears at
21 some point in time to have at least partially cured; and
22 those parts were adhering to one another. But they are
23 not currently being held together by the Loctite
24 material in its current condition.
25 Q. In all of your inspections -- well, strike

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1 that.
2 In your inspection of the Blackwell rifle
3 did you ever observe Loctite to be interfering in any
4 way with the functioning of the rifle?
5 A. No. Not based on the examination that was
6 conducted at Anderson Labs on the 4th of March of 2014.
7 Q. Are you aware of anybody else who has examined
8 the Blackwell rifle and observed Loctite to be
9 interfering with the operation of the rifle in any
10 respect?
11 A. No. I do not know that Remington -- whether
12 Remington has or has not conducted such examinations.
13 Q. Or anyone else?
14 A. If they have, I have not been provided the
15 results thereof.
16 Q. But as you sit here today, do you know of
17 anyone who has ever inspected the Blackwell rifle and
18 observed Loctite to be in any way interfering with the
19 safe operation of the rifle?
20 A. Not at that time. There is photographic
21 documentation that has been generated since the original
22 March the 4th examination that further documents its
23 presence --
24 Q. Loctite's presence?
25 A. Yeah, Loctite's presence.

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1 -- in a potentially critical location and
2 condition at the time of the event.
3 Q. But, to your knowledge, has anybody in their
4 functioning or testing of the Blackwell rifle ever
5 observed Loctite causing any problem with the safe
6 operation of the rifle?
7 A. No. I have not been provided with any
8 documentation of such a test.
9 Q. Same question for the Edge rifle.
10 A. No. I have no knowledge of any such activity.
11 Q. No. 7, "Examination of XMP fire control systems
12 contained in the Edge rifle as well as several other XMP
13 rifles manufactured prior to the date of the recall."
14 Just to be clear, the only XMP trigger
15 mechanisms or rifles that you have personally examined
16 made prior to the date of the recall were the Blackwell
17 rifle and the William Edge rifle?
18 A. That is correct. And then, of course, I was
19 supplied the late production exemplar trigger that you
20 sent me.
21 Q. Okay. But in terms of you personally examining
22 X-Mark Pro fire control systems in rifles made before
23 2014, the only ones you've examined have been the
24 Blackwell rifle and the William Edge rifle?
25 A. That's correct. And be aware that my

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1 examination of the Edge rifle was quite limited due to
2 the circumstances that were present when I saw it, the
3 only time that I saw it. And I had neither the
4 equipment nor the place to conduct any even preliminary
5 examination.
6 Q. In connection with your work in the McNeil/Thar
7 case, is there any work that you contemplate doing in
8 the future to either support or demonstrate any opinions
9 you have reached in this case?
10 A. No. I've complied with all requests of
11 Mr. Chaffin to date; and I'm sure that if he makes a
12 further request of me, I will advise whether or not I
13 can comply.
14 Q. Is there anything planned in connection with
15 future work by you in the McNeil case that you know
16 about?
17 A. Not on my part.
18 Q. Okay. Now, let's go to the third paragraph of
19 this answer that starts out, "The opinions of
20 Mr. Butters can be summarized as follows." Do you see
21 that?
22 A. Yes.
23 Q. Opinion 1, "Remington was negligent in the
24 manufacture and marketing of the rifle involved in the
25 incident made the basis of this lawsuit via the

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1 application of excess as well as the wrong class of
2 Loctite sealing solution to parts of the fire control
3 system that subsequently caused interference with the
4 trigger/sear connection so as to enable the rifle to
5 fire without the trigger being pulled."
6 Is that an accurate description of one of
7 your opinions?
8 A. Yes. That is generally the opinion that I'm
9 sure will be fleshed out by your incisive questioning.
10 Q. Let's hope. What's the basis of your opinion
11 that this was the wrong class of Loctite?
12 A. Well, it appears to have retained an adhesive
13 characteristic when found in excess in a location that
14 it was not intended to be by design specification. And
15 there was insufficient coordination between the design
16 function and the manufacturing function as well as
17 quality control and management to assure that the
18 employment of this particular material in the way that
19 it was employed was appropriate and that the
20 manufacturing specifications were governed by the design
21 intent and the design specifications.
22 Q. Let me ask you these two questions. First
23 question: Have you formed an opinion as to the proper
24 or correct class of Loctite that Remington should have
25 used?

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1 A. Well, there are a number that could have been
2 used. I would say that -- and I'm not sure what
3 Remington's intent was in the use of Loctite 660.
4 It is my impression that the Loctite 660
5 was designed to retain a certain amount of resiliency in
6 its location as a thread locker so as to be able to
7 withstand impact and vibration greater. That's what I
8 think is probably the reason that they chose Loctite
9 660.
10 There are other formulations that I
11 probably would have used. I would have used probably a
12 red Loctite that it would take dynamite to get it loose.
13 Q. Your red Loctite?
14 A. No. Their red Loctite because I don't make red
15 Loctite. I make the Loctite that I purchase in little
16 tubes.
17 Q. Right.
18 A. That would be the one that has the greatest
19 resistance to removal and displacement torques.
20 Q. Let me ask you this question: Loctite 263, you
21 understand that, one, that's a red Loctite, right?
22 A. Yeah.
23 Q. And, two, that Remington is now using that on
24 these two screws in production of X-Mark Pros?
25 A. That's what I would have used in the first

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1 place.
2 Q. Okay.
3 A. And I would have put just a teeny, tiny drop of
4 it because you don't want that stuff getting loose.
5 Q. In your opinion, is Loctite 263 a proper class
6 of Loctite for Remington to use?
7 A. As far as I know, it would be.
8 Q. All right. Let me ask you this question: If
9 Loctite 660 had only been applied by Remington and was
10 only within the screw of the blocker screw and the
11 engagement screw and noplacement else -- in other words, it
12 wasn't on the heads; it didn't go out anywhere where it
13 shouldn't have been.
14 A. Right.
15 Q. It was just in an anaerobic state between the
16 screws and these mating surfaces.
17 A. The female and the male threads in the blocker.
18 Q. Right. If that's the only location where
19 Loctite 660 was on the Blackwell rifle, in your opinion,
20 would this shooting have happened?
21 A. As long as the 660 is not where it would cause
22 an adhesive effect and a displacement of the trigger
23 with regard to the sear so that precarious engagements
24 may take place that are releasable in the absence of a
25 trigger pull, I would say it would have been perfectly

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1 fine.
2 Q. Okay.
3 A. If it ain't in a problem place, it ain't going
4 to cause you trouble.
5 Q. And I guess that's what I was getting at. Your
6 criticism here about negligent manufacture and
7 communications between design and manufacturing and
8 quality control in large part goes to your observation
9 that this Loctite 660 was getting into places other than
10 just between the mating threads?
11 A. That is correct. And that it was improper not
12 to assure that the design specifications were not met by
13 the manufacturing standards and specifications.
14 Q. Okay.
15 A. And that this was not coordinated and ensured.
16 Q. Okay. Opinion No. 2, "Negligent testing of the
17 XMP as testing did not take place within normal range of
18 colder temperatures a rifle could reasonably expect to
19 operate in resulting in the failure to detect problems
20 prior to releasing the XMP rifles for sale to the
21 general public."
22 Do you see that?
23 A. Yes.
24 Q. What's the basis of that opinion?
25 A. Well, what was done was apparently to accept

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1 boundary conditions that were set principally by mil
2 specs, military specifications.
3 This, while it might have met mil spec,
4 was incautious in the extreme because I don't know of
5 very many people who are going to go hunting at minus 20
6 and minus 30 nor do they go hunting at plus 120 or plus
7 140.
8 The temperatures in between, between, say,
9 the temperatures that were found to be where the Loctite
10 was operative as a disturbing influence on the proper
11 function of the rifle was between about minus 10 degrees
12 Fahrenheit and, according to the complaints that were
13 received in the reports of ambient temperatures at the
14 time, upwards of 50, 60, 70, perhaps 80 or 100 degrees
15 Fahrenheit.
16 So the likelihood that the usage of the
17 rifle is going to take place mostly somewhere right
18 around freezing up to somewhere right around maybe 40 or
19 50 degrees is a most reasonable assumption. Most people
20 don't go hunting in real bad cold weather, and the
21 hunting season is not in the summer months.
22 Q. And just so we're clear, have you conducted any
23 testing of Remington rifles with X-Mark Pro trigger
24 mechanisms at any temperature range?
25 A. No, no. I have not. That has not been part of

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1 my commission.
2 Q. No. 3, "Negligent failure to adequately inspect
3 the X-Mark Pro fire controls before leaving the factory
4 as the excess sealant present on the blocker and often
5 on the face of the trigger is often detectable upon
6 visual inspection."
7 Is that one of your opinions?
8 A. That's right. If it's there, it can be seen at
9 the time of manufacture and easily detected. And with
10 the proper techniques, if there is excess there, it may
11 be cleaned and removed so that it doesn't cause a
12 problem.
13 Q. And it's your opinion that any kind of
14 reasonable inspection of an X-Mark Pro fire control
15 which had excess Loctite between the blocker screw and
16 the trigger is something that an inspector should be
17 able to readily determine?
18 A. Yes. It is visually detectable with the naked
19 eye.
20 Q. And if someone is involved in the business of
21 manufacturing and testing firearms, that is something
22 that should be obvious to them that there's a potential
23 problem?
24 A. If it is part of the inspection protocol. And
25 I do not know that there was such a thing prior to the

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1 updated process records and manufacturing instructions
2 for the XMP trigger until, what was it, May of 2014?
3 Q. Correct. But in terms of a -- putting protocol
4 aside for a second, would you expect a reasonably
5 competent firearms manufacturer or gunsmith, for that
6 matter, to be able to look at the blocker screw on a
7 Remington X-Mark Pro trigger mechanism and if there's
8 excess Loctite, see it and realize, That's a potential
9 problem?
10 A. If he knows what he's looking for. And I don't
11 know that your quality control people or inspectors at
12 Remington were aware of the potential difficulties it
13 might cause, although there was no coordination between
14 the design group who were extremely careful to assure
15 that there was not excess thread locker anywhere that it
16 might cause trouble. It was applied very sparingly, and
17 it was very carefully examined. The trigger mechanism
18 was very carefully examined to make sure it wasn't
19 causing any trouble.
20 Now, the fact that that particular -- that
21 Ronkainen's outfit who made the first pre-production
22 series, the fact that their pre-production series did
23 not have the Loctite displacement problem and the
24 production did have is an indication that the production
25 people were not adequately brought on-board with the

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1 importance of such a condition.
2 Q. Okay. Well, let me ask you this: What you're
3 suggesting is that a reasonably competent engineer
4 looking at an X-Mark Pro trigger mechanism and seeing
5 excess Loctite between the blocker screw and the
6 trigger, you would expect them to recognize that's a
7 potential danger?
8 A. Yeah. It has no functional purpose out there
9 and it indeed may be highly deleterious to the operation
10 and reliability of the trigger mechanism itself.
11 Q. Okay.
12 A. And the fact that there was no coordination
13 between the two groups, between Elizabethtown, Kentucky
14 and Ilion, New York, is indication of a breakdown in
15 managerial and quality control responsibilities.
16 Q. And you would expect a competent engineer upon
17 looking at one of these fire controls and seeing excess
18 Loctite to appreciate that this poses a potential hazard
19 to a user?
20 A. Yeah. Well, competent design engineers should
21 always be asking themselves with regard to their
22 decisions they make with regard to whatever they're
23 working on, What are the consequences of my decision?
24 What is my choice going to potentially result in?
25 Q. Okay.

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1 A. And if there is excess material that may
2 potentially inhibit the appropriate and proper function
3 of the device, whatever it could be, he needs to assure
4 himself that those who are manufacturing -- or at least
5 the management should assure that the manufacturing
6 specifications are governed by the design
7 specifications, which essentially should produce a
8 reliable mechanism and which I believe the original
9 pre-production rifles were.
10 Q. And you also believed that the post-recall
11 rifles are reasonably safe, too?
12 A. As long as they -- from the presence of that
13 particular material.
14 Q. Right.
15 A. I still -- I emphasize that I don't think that
16 you're using the correct element in the assembly to
17 reset the blocker. I think bolt motion should be what
18 resets the blocker rather than motion of the safety,
19 which will not take place between every reloading of the
20 chamber, although bolt motion will.
21 Q. Now, let's go to what's listed as opinion
22 No. 5. And actually I think here there's an omission of
23 the No. 4. It goes from 3 to 5.
24 5 is "Failure to reasonably investigate
25 the problems brought to light by numerous customer

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1 complaints filed before the incident made the basis of
2 this lawsuit, specifically including, but not limited
3 to, the Michael Brees video and complaint of
4 January 2010 such that warnings and recall notices could
5 and should have been issued to all XMP owners sufficient
6 to cause them to stop using the rifle until it could be
7 adequately repaired."
8 Do you see that?
9 A. Yes.
10 Q. You have seen the Remington recall notice
11 issued in April of 2014 for model 700s with X-Mark Pro
12 triggers, correct?
13 A. Yes, I have.
14 Q. And, in your opinion, is that -- was that
15 warning and recall notice sufficient to have caused
16 owners to stop using the rifles until they could be
17 adequately repaired?
18 A. I don't know. I've slept since I looked at
19 that. And if you'd like to supply that, I'd be happy to
20 take a look at it; but I don't remember the details of
21 it. However, it may or may not. I'm not saying that it
22 is inadequate. I'm just saying that I don't off the top
23 of my head today have the ability to tell you whether I
24 like it or don't. I will be glad to offer you that.
25 Q. Have you formed an opinion as you sit here

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1 today as to whether the April 2014 recall notice and
2 recall program by Remington was adequate?
3 A. Well, I don't think it was sufficiently
4 publicized. I have not seen any recall notice in widely
5 distributed publications such as The Rifle, The American
6 Rifleman, Gun Digest. I've seen it obliquely mentioned
7 in some -- in Gun Digest, for example, in an editorial
8 sense.
9 Q. If Remington published recall notices for the
10 X-Mark Pro --
11 A. I just haven't seen them because they haven't
12 been prominently distributed to my observation.
13 Q. You're not saying --
14 A. It's on the Remington website, but I haven't
15 seen it distributed any other places.
16 (Exhibit 23 marked)
17 Q. (By Mr. Wills) I'm showing you what we've
18 marked as Butters Exhibit 23. Have you seen this recall
19 notice before?
20 A. I don't recall seeing it in that configuration.
21 I may have, but I don't recall having seen it.
22 Q. Why don't you take a look at it. There's a
23 paper copy.
24 A. Yeah.
25 Q. Review that for a second and tell me when

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1 you're done looking at it.
2 A. Very well.
3 Yeah. This particular exhibit,
4 Butters 23, appears to be an adequate notification,
5 tells you what's the problem, what to do about it and
6 what to expect and what not to do, which is quite
7 significant.
8 Q. Let's look at opinion No. 6 or category 6.
9 Okay. No. 6, "Malfunctions where contaminated or
10 pre-recall XMP rifles fire without pulling the trigger
11 are similar incidents in that each is caused by failure
12 of the trigger to properly position itself beneath the
13 sear so as to be fully engaged providing proper
14 trigger/sear support or positioning such that the rifle
15 may be safely used."
16 Do you see that opinion?
17 A. Yes, I do.
18 Q. You have examined the condition of the
19 Blackwell rifle, right?
20 A. That's correct.
21 Q. Have you examined the condition of any of these
22 customer complaint rifles that you refer to or are
23 referred to in this summary of your opinions?
24 A. No. They have not been provided to me.
25 Q. In order to offer an opinion as to the specific

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1 cause of any of those occurrences, would it be necessary
2 for you to examine the rifle?
3 A. Not all of those, no. And there's a reason for
4 that.
5 Q. Let's hear it.
6 A. The rifle will only discharge if the sear
7 releases a cock striker to impact the primer of a
8 chambered cartridge, a live cartridge.
9 Now, if there is no unintended release of
10 the sear, the sear will not drop down, the striker will
11 not move forward and the rifle will not discharge
12 whether or not there is a live round in the chamber.
13 Now, all of these different described
14 conditions of firing such as fire on safety release,
15 fire on bolt closing, fire on bolt opening and jar-off
16 are the result of either no or inadequate support for
17 the sear by the trigger, which is occasioned by the
18 improper overlap of the searing surfaces on sear and
19 trigger or their improper engagement on excessive radii
20 at the release Edge.
21 So they're all manifestations of the same
22 lack of support for the sear. If you provide support
23 for the sear, the gun is not going to shoot. You've got
24 to release the sear on a cock piece before it will
25 shoot.

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1 Q. Mr. Butters, as far as you know, each of these
2 rifles involved in customer complaints of unintended
3 discharge in X-Mark Pro trigger mechanisms would also
4 have fired as a result of the safety being off and there
5 being an inadvertent or intentional pulling of the
6 trigger?
7 A. Well, all of them have been demonstrated to
8 have fired under those conditions as well as having been
9 fired under conditions that were not desired by the gun
10 handler.
11 Q. Well, that's the claim of the gun handler,
12 correct?
13 A. You have a large population of complaints out
14 there for a variety of reasons that are exactly
15 coincident with the condition that I described to you
16 and the one that has been documented by Mr. Watkins in
17 his high-speed video of the entrainment of the
18 materials, uncured materials, between the blocker screw
19 tip and the front face of the trigger which causes a
20 displacement toward the disengagement of the trigger
21 from the sear, potentially to a completely unsupported
22 condition in the case of an FSR or a precarious
23 condition in the case of the fire on bolt opening, fire
24 on bolt closing or the jar-off.
25 Q. Other than the -- strike that.

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1 Can you offer an opinion to a reasonable
2 degree of certainty that any of the other customer
3 complaints of unintended discharges were caused by the
4 presence of excess Loctite which you say is the cause of
5 the McNeil incident?
6 A. I would presume that that would either be
7 supported by actual examination. There were four rifles
8 selected out of, I think, upwards of 70 or more that
9 were made available to Mr. Watkins. He ran four of them
10 through tests. And he obtained a replication of the
11 claimed malfunction, and he was able to get high-speed
12 photographs of certain ones of them that were causing
13 the displacement of the trigger.
14 Q. That's on four guns?
15 A. Yeah. He quit at four guns because he said --
16 what he was looking for apparently was not a full
17 examination of a total population of rifles that had
18 been returned with that particular complaint and
19 retained by Remington but a justification for a recall.
20 I think when he got to the position where
21 he had four guns that were exhibiting the claimed
22 malfunction, he said, That is a sufficient red flag to
23 notify design, management, quality control and
24 production and for a management decision to be made with
25 regard to what Remington's response would be.

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1 So I think what he done is gone as far as
2 he felt that he needed to do to justify a recall, not to
3 find everything that had to do with that complete
4 population of rifles.
5 Q. You don't criticize him for that, do you?
6 A. No, I do not.
7 Q. In fact, he undertook and made the right
8 recommendations upon finding those four rifles, did he
9 not?
10 A. Yes, he did. But the problem was it was about
11 four or five years late. The red flags began to come up
12 in about 2009 at the earliest that I have records of.
13 And at that point in time the arms service branch of
14 the -- I guess it would have to be a customer interface
15 between Remington and its customers for the addressing
16 of alleged or proven malfunctions.
17 And at that point in time the fact that
18 arms service did not blow the whistle and say, We have a
19 potential problem here and it needs to be addressed by
20 people who have the horsepower and the rank and the
21 engineering capabilities to evaluate this.
22 The people in arms service are essentially
23 gunsmiths. They're not the -- they don't have the
24 background nor the position to be able to make a
25 decision on a recall. However, they do have the

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1 responsibility to communicate with their superiors so
2 that appropriate action, if any, may be taken on their
3 concerns.
4 Q. What is your understanding based on everything
5 you've read and have reviewed in this case as to the
6 first time anybody at Remington, be it a gunsmith, an
7 armed service person, an engineer, was ever able to
8 replicate a discharge without a trigger pull because of
9 excess Loctite?
10 A. That would be -- the first replication that I
11 have any documentation of is that done by Derek Watkins.
12 Q. Okay.
13 A. And that was later on in the game. I think it
14 was in -- well, what was it? 2013, 2012? I don't
15 remember the exact date that Watkins did his cold range
16 test.
17 Q. On the Otto rifle, right?
18 A. Yeah. It was one of them that was made
19 available to him that was a rifle of concern to
20 Remington.
21 Q. Okay. And you've seen his test results on that
22 rifle, right?
23 A. Yes. I saw that.
24 Q. But before Mr. Watkins was able to or did
25 replicate a discharge without a trigger pull in the Otto

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1 rifle, are you aware of or do you have any information
2 that anyone at Remington was ever able to replicate a
3 discharge without a trigger pull because of Loctite in
4 an X-Mark Pro mechanism?
5 A. I know of no attempt that Remington made to do
6 that. So if they're not going to make an attempt to do
7 it, they would not be able to replicate it. And that is
8 a principal failure of communication and coordination
9 that had a critical effect on the number of rifles that
10 potentially may cause injury or death out in the
11 marketplace.
12 MR. WILLS: Move to strike everything
13 after "I don't know" as nonresponsive.
14 Q. (By Mr. Wills) Mr. Butters, my question was:
15 Do you know whether anyone at Remington ever replicated
16 an unintended discharge on an X-Mark Pro before Derek
17 Watkins did on the Otto rifle?
18 A. No. I have no reportage of any investigation
19 of that nature from Remington at all.
20 Q. You have reviewed product service records or
21 armed service records of customers who sent guns in to
22 Remington complaining of unintended discharges of X-Mark
23 Pros, right?
24 A. That is correct.
25 Q. And you've read within those records where the

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1 gunsmiths or the people in product service could not
2 duplicate those events, right?
3 A. That is correct.
4 Q. So those people at least at that level tried to
5 replicate what the customer was reporting based on what
6 you see?
7 A. Apparently they made some attempt to do so; but
8 I do not have any idea of what techniques they used or
9 what examination methods.
10 The presence of allegations, whether true
11 or false, were indication that there needed to be
12 quality control and managerial oversight exercised in
13 order to assure that there were no adverse circumstances
14 that resulted therefrom.
15 Q. Okay. I want to look at the last paragraph
16 here of the disclosed opinions for you on this
17 Exhibit 1B. It says, "In summary, the most probable
18 cause of the incident made the basis of this lawsuit was
19 the presence of excess sealant within the fire control
20 mechanism of the model 700 rifle involved in the
21 incident made the basis of this lawsuit. We are
22 currently awaiting additional inspection of
23 photographing of both the blocker and engagement screws
24 after which Mr. Butters may have additional opinions."
25 Do you see that?

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1 A. Yes.
2 Q. The additional inspection and photographing, I
3 believe, has occurred at Anderson Labs here within the
4 past six weeks. You're aware of that?
5 A. That is correct. And I have been supplied
6 photographs thereof, and you have copies of those as
7 well.
8 Q. Right, right. Does that change your opinions
9 in any way?
10 A. What do you mean does it change my opinions?
11 Q. Well, you say your opinion here is the most
12 probable cause --
13 A. Oh, no. It doesn't change my opinion of that.
14 What it does is it supported thereof.
15 Q. Have you formed an opinion as to the Blackwell
16 rifle as to where excess Loctite was located within that
17 mechanism so as to cause an unintended discharge?
18 A. Between the face of the blocker screw and the
19 front face of the trigger. There is also the presence
20 of Loctite potentially cured, probably at least
21 semi-cured, between the trigger engagement screw and the
22 rear face of the trigger.
23 The rationale in that point being you can
24 either pull the top of the trigger forward and reduce
25 the sear/trigger engagement or if there is some sort of

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1 material, whether it be extraneous or whether it is
2 caused by the Loctite from the manufacturing processes
3 that prevent the return of the trigger to the rear or
4 actually push the trigger forward, you also are moving
5 the trigger in a direction that reduces the nominal
6 20-thousandths-of-an-inch overlap between searing
7 surfaces.
8 Q. Have you formed an opinion to a reasonable
9 degree of certainty as to which of those two locations
10 was the most probable in the Blackwell rifle?
11 A. It would appear that there is more residue on
12 the front location between the blocker screw and the
13 front face of the trigger rather than at the rear.
14 Q. And in your opinion --
15 A. And that is the one that probably was the most
16 affected.
17 Q. Mechanically -- well, strike that.
18 Are you aware that this rifle was,
19 Blackwell rifle, was examined by CT scan at North Star
20 Imaging in February of 2014?
21 A. Yes.
22 Q. Did you participate?
23 A. No.
24 Q. Have you been provided any of the output from
25 that CT inspection?

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<p>1 A. I have viewed that CAT scan, yes. 2 Q. Do you have any of that material with you? 3 A. No. It is in the possession of Mr. Chaffin who 4 has it in his computer. I don't have it in mine nor do 5 I have any of those CAT scan tomographic type of 6 inspections. 7 Q. You're familiar with what's done up at North 8 Star to conduct these exams? 9 A. Absolutely. 10 Q. And you have no problem with them being done, 11 correct? 12 A. No. 13 Q. And in the context of what you saw from the 14 North Star inspection of the Blackwell rifle, did you 15 see anything out of the ordinary? 16 A. No, I did not. Although I do not know that the 17 North Star inspection has the ability to define any 18 excess cured or uncured Loctite. I do not know that it 19 is of sufficient mass and quality, if you want to put it 20 that way, in order to give you an x-ray image. 21 What it did show me was that there was no 22 apparent interference between the side plates of the 23 trigger and the trigger and/or the sear. So -- and, 24 further, there was no substantial environmental debris 25 or manufacturing scrap that was present in a location</p>	<p>1 engagement screw from being in contact with the trigger 2 so as to interfere with the amount of engagement, there 3 should be a gap between the head of that screw and the 4 trigger, right? 5 A. Yeah. There really should be. 6 Q. Did you observe that on the CT of this gun? 7 A. Only when the trigger was forward. I did not 8 detect any particular problem there. And you'll notice 9 that I told you before that the most probable location 10 for the interfering uncured or partially cured Loctite 11 was on the front face. 12 I don't have any evidence there was any 13 active back there, but there is certainly the evidence 14 that there had been material in the location. Whether 15 or not it ever caused trouble or not is quite 16 improbable. 17 Then we also -- I like those North Star 18 inspections because they enable a very precise 19 determination of the relationship of all the internal 20 parts and potential substantial debris like 21 manufacturing scrap, for example, or a piece of thread 22 material that has come off of a threaded fastener that 23 is preventing the proper motion of this trigger and 24 sear. 25 So -- and I saw none of that. And I saw</p>
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<p>1 that would cause an inadvertent discharge such as is 2 reported in the Blackwell rifle. 3 Q. When you looked at those CT materials, did you 4 look in the area of the trigger engagement screw? 5 A. Yes. 6 Q. Did you observe anything out of the ordinary? 7 A. No. 8 Q. Did you observe anything interfering with the 9 proper relationship of the head of that screw and the 10 trigger? 11 A. No. 12 Q. For example, if there had been something wedged 13 between the head of that screw and the trigger so as to 14 reduce the amount of sear engagement at the time the CT 15 was conducted, you would expect to see that? 16 A. If it was of sufficient consistency that the 17 x-ray technique would have identified it. I don't know 18 whether the x-ray techniques would have identified a 19 nonmetallic adhesive type of material such as the 20 Loctite would present. I really don't think it would. 21 I don't think it's got enough mass in it to show up on 22 those. 23 Q. Let's assume it wouldn't. Okay? 24 A. Very well. 25 Q. But if Loctite was preventing the tip of the</p>	<p>1 that there was adequate clearance. So it does all that 2 without ever having to disassemble those things and 3 potentially compromise the condition of critical 4 evidence. 5 Q. Did you see anything in the CT analysis of the 6 Blackwell rifle that indicated anything out of 7 specification on that trigger mechanism? 8 A. No, I did not. That particular examination did 9 not detect any out-of-spec condition. 10 Q. Was there anything that you observed in the CT 11 inspection that would or could explain a discharge 12 without a trigger? 13 A. Well, it showed that there was no interference 14 between the trigger and sear and the side plates and, 15 further, that the relationship of the internal parts of 16 the trigger appeared to be appropriately in place. 17 So, you know, I found that it was a 18 prudent thing to do to run it through the North Star 19 labs simply because it showed what was not effective at 20 the time of that examination. 21 (Exhibit 1C marked) 22 Q. (By Mr. Wills) Mr. Butters, quickly look at the 23 original of your notes and what we have up as 24 Exhibit 1C. And other than my highlighting on there 25 with the yellow, would these appear to be the notes of</p>

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1 your examination?
2 A. Yeah. These are the notes of my examination in
3 my handwriting.
4 Q. All right. Let's take a break.
5 THE VIDEOGRAPHER: Off the record at
6 11:33.
7 (Recess taken)
8 THE VIDEOGRAPHER: This begins media
9 No. 2. We're back on the record at 11:50.
10 Q. (By Mr. Wills) Mr. Butters, I want to go to
11 your letter of March 31, 2014 to Mr. Gary with your seal
12 or stamp on it. Do you remember that?
13 A. Yes, yes.
14 MR. LOTHSON: One correction. 301.
15 MR. WILLS: 301. Sorry.
16 Q. (By Mr. Wills) And this morning we talked about
17 your stamp. It's hard to see on this; but here's your
18 stamp, right?
19 A. That's correct.
20 Q. It was just kind of embossed there.
21 A. It's an embossed impression that you're
22 supposed to stamp your signature with whenever you take
23 a position and sign yourself as PE, professional
24 engineer.
25 Q. Okay. Thank you.

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1 A. It is an official stamp.
2 Q. Let's go to Exhibit 1C, your notes of the
3 examination.
4 A. Got it.
5 Q. And just to set the stage here, you prepared
6 these notes as the parties were conducting the
7 examination of the Blackwell rifle on March 4th, 2014,
8 right?
9 A. That's right. It was my responsibility to make
10 a handwritten report that was distributed between all
11 participants.
12 Q. Have you reviewed the reports, the handwritten
13 reports, that were prepared by any of Remington's
14 experts?
15 A. No, I have not. I have not received any of
16 those materials.
17 Q. All right. Well, we'll come to those in a
18 minute. But all this stuff on Exhibit 1C is in your
19 handwriting, right?
20 A. That's correct.
21 Q. And at the top No. 1 it says -- just identifies
22 what rifle we're looking at, right?
23 A. Yes.
24 Q. That's the Blackwell rifle?
25 A. Yes.

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1 Q. And the last two lines of part 1 it says,
2 "Condition NRA excellent with X-Mark Pro trigger."
3 A. Yeah.
4 Q. "Pull firm with minimum" --
5 A. Overtravel.
6 Q. -- "OT."
7 A. OT is overtravel.
8 Q. What does the five --
9 A. That's estimated trigger pull. 4-1/2 to
10 5 pounds is what my estimate of the trigger pull was.
11 Q. That's by the trusty Butters' index finger?
12 A. That's correct. The educated deadly digit.
13 Q. All right. Now, on paragraph No. 2 you go on
14 with some further documentation of the exam. About
15 halfway down it says, "Push off test indicates" --
16 what's the next word?
17 A. Sear/trigger recapture.
18 Q. Okay. "Upon bolt" what?
19 A. Hold on a minute. Let me find it on this one
20 because it's blurred in this screen.
21 Q. Yeah. Find it on your original. That's fine.
22 A. "Indicates sear/trigger recapture upon bolt
23 closure with force applied to cocking piece head."
24 Now, what we did was take either a small
25 hammer handle or a screwdriver handle or something and

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1 apply force to the head of the cocking piece as it
2 protrudes from the bolt sleeve as we closed the bolt.
3 And that was to determine whether or not you could
4 displace the sear in its relationship to the trigger so
5 that the striker would be released under those
6 circumstances.
7 It did not, and it did not fail --
8 Q. So it passed those tests?
9 A. -- the push-off test in either the fire or the
10 safe mode.
11 Q. And that indicated to you, that test result,
12 that the gun in that respect was working as it should?
13 A. Right. There wasn't a mismatch of parts that
14 would -- if there was a force applied to the cocking
15 piece head, that would create a precarious or improper
16 engagement of sear and trigger.
17 Q. So effectively you can rule that potential out
18 as having anything to do with this occurrence, right?
19 A. That's true.
20 Q. No. 3, "FSR test, passed 5 by 5." Do you see
21 that?
22 A. Yeah. That's the fire-on-safety-release test.
23 Q. Explain to us what was done on the
24 fire-on-safety-release test.
25 A. Well, the rifle is in fire; and you cycle the

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1 bolt so as to cock it. And you place it on safe and
2 pull the trigger and then release the safety from the
3 safe position to the fire position. And if it does not
4 release the striker, it passes.
5 Q. Okay.
6 A. And it passed five out of five times.
7 Q. And the fire-on-safety-release test -- strike
8 that.
9 In a number of the tests conducted on the
10 four rifles that you referred to where Derek Watkins
11 could replicate a firing without a trigger pull --
12 A. Yes.
13 Q. -- some of those fired on safety release,
14 right?
15 A. That is correct.
16 Q. And I take it it would be your opinion, as well
17 as it was his, that that was occurring because the
18 Loctite between the blocker screw and the trigger, when
19 the safety was being pushed off, was essentially pulling
20 the trigger?
21 A. Yes. The motion of the safety and the blocker
22 with respect to the trigger resulted in a reduction of
23 engagement between the searing surfaces on the trigger
24 and the sear itself.
25 Q. Okay. But when you conducted the FSR test five

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1 times or when it was conducted on this examination, that
2 did not occur, did it?
3 A. No. There was sufficient engagement between
4 the trigger and the sear at that time so that the
5 release of the safety from the safe position to the fire
6 position did not cause a drop of the firing pin.
7 Essentially what you're doing, if it fires
8 under those circumstances, the safety lever has become a
9 second trigger.
10 Q. Right.
11 A. And it releases the cock striker.
12 Q. But it didn't happen here?
13 A. No. It did not happen there, five out of five
14 times.
15 Q. So do you have any explanation for why any
16 excess Loctite in the Blackwell rifle did not cause the
17 gun to experience a fire on safety release in the tests
18 conducted on March 4, 2014?
19 A. Yeah. Under the condition that it was tested,
20 if it was indeed present in a semi-cured or uncured
21 condition, it did not have enough effect on the overlap
22 between sear and trigger so as to cause an undesired
23 release of a cock striker.
24 Q. And it's never had that effect on this gun when
25 functioned, has it?

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1 A. I have never been present when it has done so.
2 Q. Are you aware of it ever happening other than
3 your opinion about the event at the time of the
4 occurrence --
5 A. Well, it's not an FSR at the time of the event.
6 That was a jar-off at the time of the event.
7 Q. Are you aware of this rifle ever experiencing
8 any jar-off-type firing at any time before the date of
9 the occurrence?
10 A. No.
11 Q. Are you aware in all the testing and
12 functioning of the rifle done since the date of the
13 occurrence the rifle ever experiencing a jar-off firing?
14 A. No. I do not know that it has been subjected
15 to any test that would have detected such a failure.
16 Q. Well, this rifle was subjected to a
17 full-function test by Mr. Watkins at this examination on
18 March 4th, was it not?
19 A. Yes.
20 Q. Including rapid cycling of the bolt with the
21 safety off?
22 A. Oh, yeah. Slam fire. It didn't slam fire, to
23 my knowledge.
24 Q. Okay. That in a sense is a replication of a
25 jar-off event, is it not?

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1 A. Yeah. A subset of jar-off conditions, yes.
2 That's true.
3 Q. And the gun never fired, did it?
4 A. Not to my knowledge.
5 Q. And every time this rifle would be cycled with
6 the safety off and the bolt closed and lowered, that
7 action would be imparting certain forces and jarring
8 motions to the trigger mechanism itself?
9 A. Yes, it would. With or without the presence of
10 some sort of interference from any cured, uncured or
11 partially cured Loctite residues.
12 Q. And in the condition this gun was in it never
13 fired during any of those functionings, did it?
14 A. No. The test in Houston on the 4th of March,
15 2014, I'm not aware of any of the FSR and indeed the
16 next trick test in which there was an undesired release
17 of the cock striker by anybody.
18 Q. The next entry does say -- it's hard to read
19 but "trick test passed six by six," right?
20 A. Yes.
21 Q. And the trick test involves putting -- having
22 the rifle be cocked, right?
23 A. Yes.
24 Q. Putting the safety in a position between fire
25 and safe?

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1 A. Yes.
2 Q. Pulling the trigger?
3 A. Yes.
4 Q. Releasing the trigger?
5 A. Yes.
6 Q. And then pushing the safety to the fire
7 position?
8 A. That is correct.
9 Q. And that was done six times at this exam, and
10 the rifle passed all six tests?
11 A. That is correct.
12 Q. What did that signify to you at that time?
13 A. It signifies that if indeed there was an
14 inadvertent firing at the time of the incident, that
15 those conditions were not present at that time and it's
16 a demonstration of the intermittency of a problem of
17 this nature.
18 We were unable to reproduce it given the
19 manipulations of the rifle that we performed at Anderson
20 Labs on the 4th of March.
21 Q. If you go down in paragraph 3, I haven't
22 highlighted it; but it says "safety forces measured safe
23 to fire and fire to safe." Do you see that?
24 A. Yes.
25 Q. You have various poundages expressed there,

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1 right?
2 A. Yeah.
3 Q. Those were conducted, if you recall, by
4 Mr. Watkins with the gauge where he pushes it off?
5 A. They were either conducted by Mr. Watkins or by
6 Jack Belk. See, Jack and I and Watkins collaborated on
7 these. We assisted one another in the progress of the
8 examination.
9 Q. And were those test results as you would expect
10 them to be as far as safety forces?
11 A. Yeah. They're not unusual forces.
12 Q. Okay.
13 A. They were generally what I expected them to be.
14 I expect the fire-to-safe forces to generally be
15 slightly higher than that of the safe to fire, but
16 that's just a consequence of the mechanism.
17 Q. And that's what you have here?
18 A. Yeah, sure.
19 Q. Okay. Now, item No. 4, read that first few
20 words there.
21 A. "Bolt action removed from stock."
22 Q. Does that say bolt action or barreled action?
23 A. Pardon me. Barreled action. My apologies.
24 BBL, period. "Barreled action removed from stock, clean
25 and dry in appearance."

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1 Q. "With no apparent" -- what's the next word?
2 A. "External debris below the stock line on
3 magazine and bottom metal or bolt."
4 Q. What's the next thing say?
5 A. "Factory seals on pull, engagement and
6 overtravel intact."
7 Q. So you looked at the trigger pull engagement
8 and overtravel screws?
9 A. Yes, indeed.
10 Q. And the next line, the final line of 4?
11 A. It says, "Sear motion in housing is unimpeded
12 and sear returns freely."
13 What we did was pull trigger with it on
14 fire; and when you depressed the sear, it would move
15 downward into the trigger housing and return freely
16 under the force of -- return force from the sear return
17 spring.
18 Q. And as far as the proper functioning of the gun
19 is concerned, that's a good finding?
20 A. Oh, yeah.
21 Q. All right. And then No. 5, I kind of --
22 whoever copied them, yours is on one sheet but mine is
23 on two apparently due to copying. But you measured the
24 trigger pulls, right?
25 A. Right. NRA trigger pull which is parallel with

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1 the barrel using Remington's apparatus, which is rather
2 a cute little thing where they drop water in a container
3 and measure to the hundredths of a pound. They got
4 between 4-1/4 and just slightly less than 4-1/2 pound.
5 Q. Those trigger pulls were consistent, were they
6 not?
7 A. They were anticipated. Let's put it that way.
8 Q. And you considered those to be adequate and
9 appropriate trigger pull forces for this rifle?
10 A. Yes, indeed.
11 Q. And did those trigger pull forces suggest or
12 indicate to you that there was anything interfering with
13 a proper sear engagement on the rifle?
14 A. At that time there was no indication that there
15 was.
16 Q. No. 6, "Fire control remove from action in
17 prep" --
18 A. -- "for optical and scanning electro SEM
19 microscope study."
20 Q. Okay. Now, does that conclude your notes
21 there?
22 A. That concludes my notes.
23 Q. I want to go through some of the photographs
24 from the inspection. We'll just put them up on the
25 screen here in front of you and you can look at them.

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1 A. Sure.
2 (Exhibit 2A marked)
3 MR. WILLS: Let's go to 2A.
4 Q. (By Mr. Wills) Mr. Butters, you recall during
5 this inspection there were a lot of people taking
6 photographs and they were also taking videos, right? Do
7 you recall that?
8 A. Yes, indeed.
9 Q. Okay. And Exhibit 2A that we see here just
10 shows the packaging that the rifle was received in from
11 law enforcement in North Carolina being opened, right?
12 A. Yeah. It's either that or the lunch chicken
13 that's wrapped in something. This I'm having trouble
14 making any sense because it's not showing up well on my
15 screen. I can see over there, though; and it looks like
16 that's what is.
17 That's a lot better. This appears to be
18 the way that it was documented that it was received in
19 sealed container from North Carolina.
20 Q. Okay.
21 A. I never had custody of it.
22 Q. Right. And as far as you knew, this rifle had
23 been in the possession of law enforcement authorities
24 from the time of the incident until it was shipped in
25 this box for the parties to examine in this lawsuit,

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1 right?
2 A. As far as I know. I have no direct knowledge
3 as to who had custody of it, but I presume that that's
4 adequately documented.
5 (Exhibit 2B marked)
6 Q. (By Mr. Wills) Okay. Let's look at Exhibit 2B.
7 2B shows a grating made on the bottom of the trigger
8 guard, correct?
9 A. Correct.
10 Q. That's the kind of thing that you would expect
11 law enforcement probably put there to identify this
12 rifle?
13 A. Yes.
14 Q. And it says K-1 there, I think, does it not?
15 A. Yes. Looks like an E to the right of that.
16 (Exhibit 4 marked)
17 Q. (By Mr. Wills) Okay. And then let's go to
18 Exhibit No. 4. This is a photograph taken during the
19 inspection. And looking at the rifle in this photograph
20 is Mr. Belk, right?
21 A. That's right. And I'm in the background.
22 Q. Right. And Mr. Gary is here in the foreground,
23 right?
24 A. I guess he probably is.
25 Q. Okay. We can see the videographer down there

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1 at the end, right?
2 A. Yes.
3 Q. From Anderson Labs?
4 A. Yes.
5 (Exhibit 5 marked)
6 Q. (By Mr. Wills) All right. Let's go to
7 Exhibit 5, please.
8 And I'll represent to you that that is
9 Derek Watkins' hand there. Do you recall Mr. Watkins
10 conducting a series of function tests?
11 A. Yes, I do.
12 Q. The rifle passed all those tests?
13 A. Yes, indeed.
14 (Exhibit 5A marked)
15 MR. WILLS: Let's go to 5A, please.
16 A. (Witness complies.)
17 Q. (By Mr. Wills) We talked a few minutes ago
18 about Mr. Watkins conducting or the parties conducting
19 safety on/off forces. And this would be a measurement
20 of safety on to off, right?
21 A. Apparently. And Watkins is doing the
22 measurement; Jack Belk is steadying the rifle in the
23 vise; and I am taking notes in the background.
24 Q. All right.
25 (Exhibit 6 marked)

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1 MR. WILLS: Let's go to Exhibit 6, please.
2 A. (Witness complies.)
3 Q. (By Mr. Wills) Exhibit 6 shows the barreled
4 action that we referred to after the stock is removed,
5 correct?
6 A. That is correct.
7 (Exhibit 6B marked)
8 MR. WILLS: Let's go to 6B, please.
9 A. (Witness complies.)
10 Q. (By Mr. Wills) What does Exhibit 6B show us?
11 A. Well, that is the top of the sear.
12 Q. Okay.
13 A. Partially in focus.
14 Q. All right.
15 (Exhibit 6C marked)
16 MR. WILLS: Let's go to Exhibit 6C.
17 Q. (By Mr. Wills) And this just shows that the
18 parties when they were looking at the trigger mechanism
19 were using cameras and microscopes to get a detailed
20 look at the trigger mechanism, correct?
21 A. Yes. With the safety in the safe mode at that
22 time.
23 Q. Can I see that -- Tom, could you hand me that
24 photograph?
25 A. Sure.

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1 Q. I'm going to look at it on the Elmo here, if we
2 could. The light is not perfect here. That's the
3 photograph we just looked at, right?
4 A. Yes.
5 Q. I'm going to point here to this. Do you see
6 this box here?
7 A. Yeah.
8 Q. That's the view hole, is it not?
9 A. That's the view hole for the blocker.
10 Q. Okay. And a person can look in there and see
11 the head of the blocker screw, can they not?
12 A. That is correct. And the front face of the
13 trigger.
14 Q. Okay. So to the extent there was any excess
15 Loctite or anything like that interfering between the
16 head of the blocker screw and the trigger, you could
17 look in there and see that?
18 A. Not on that photograph. There's insufficient
19 definition to be able to determine that from that.
20 Q. No. But forget the photograph.
21 A. That's where it would be were there to be any
22 excess residues.
23 Q. Okay. But if somebody just took this camera or
24 microscope over here and brought it over here and looked
25 in this direction, you could see that?

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1 A. Yes. If it's got appropriate lighting and
2 focus, I would think it probably would show.
3 Q. Okay.
4 (Exhibit 7 marked)
5 MR. WILLS: Let's look at Exhibit 7,
6 please.
7 A. (Witness complies.)
8 Q. (By Mr. Wills) We talked about some water
9 contraption that Mr. Watkins and Remington were using to
10 measure the trigger pull. That shows that, right?
11 A. Yes.
12 Q. And as far as the ability of that mechanism to
13 provide accurate trigger pull measurements, you believe
14 that it does, do you not?
15 A. Yes.
16 (Exhibit 7A marked)
17 MR. WILLS: Let's look at 7A, please.
18 A. (Witness complies.)
19 Q. (By Mr. Wills) And here's another view of that
20 mechanism, and in the background you can see --
21 A. That's the trigger/sear engagement that is
22 being viewed and displayed on that laptop.
23 Q. All right. And in this view the safety would
24 be --
25 A. On fire.

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1 Q. -- on the fire position, correct?
2 A. Yes.
3 Q. And we know that because the sear is resting on
4 the trigger?
5 A. That's correct.
6 Q. Do your notes have any indication as to what
7 the measurement was of the trigger/sear engagement?
8 A. It was determined to be 20 thousandths.
9 Q. What do you base that on?
10 A. That is my information from what I understand
11 that was determined by Watkins. I have not been
12 afforded the privilege of reading the notes that were
13 supposed to be shared between the parties. So it is my
14 understanding that it was 20 thousandths.
15 Q. If the engagement between the trigger and sear
16 on the Blackwell rifle was measured to be
17 20 thousandths, that would be a safe and secure amount
18 of engagement, would it not?
19 A. That would indeed. And it also would be in
20 conformity with the assembly and manufacturing
21 specifications and instructions.
22 Q. And if it were measured to be at
23 25 thousandths, that would also be within
24 specifications?
25 A. Absolutely, absolutely. It would -- well, not

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1 really. I think it's 20 plus or minus 1, which you've
2 got to -- and that's a pretty close tolerance to have to
3 meet is a thousandths of an inch.
4 More than 20 thousandths, 25 thousandths,
5 that would do nothing but potentially increase the creek
6 in the trigger pull action; but it would not constitute
7 any danger as long as that was maintained.
8 Q. And as you-all were doing this inspection and
9 doing these trigger pull tests, you could see the amount
10 of engagement there on the screen, right?
11 A. Yeah.
12 Q. Did you ever see in any functioning or
13 examination of this rifle the engagement to be a
14 precipitous or precarious engagement?
15 A. No. I never observed it, and I watched the
16 video.
17 Q. Like a hawk?
18 A. You bet. You bet.
19 Q. All right.
20 A. Because that was my responsibility. If it's
21 not engaging appropriately, we all need to be made aware
22 of it and it called to everybody's attention.
23 Q. And it was engaging?
24 A. And we addressed it. And it was in spec.
25 Q. If the Blackwell rifle at the time he took it

<p style="text-align: right;">Page 101</p> <p>1 out of the case had 20 thousandths of engagement, sear 2 engagement, as you found to exist on March 4th, 2014, 3 would that rifle have fired in the absence of a trigger 4 pull? 5 A. I don't think it would. Very, very unlikely 6 that it would have done so in the absence of a movement 7 of the trigger. 8 (Exhibit 8 marked) 9 MR. WILLS: Let's look at Exhibit 8, 10 please. 11 A. (Witness complies.) 12 Q. (By Mr. Wills) Now I'm showing you what we've 13 marked as Exhibit 8. And I think this was also marked 14 by Bob at Derek's deposition or Ronkainen's deposition. 15 You've seen this photograph before, right? 16 A. Yes, I have. 17 Q. And tell us what that photograph depicts in 18 your expert opinion. 19 A. This is a picture of the blocker screw and the 20 front face of the trigger. 21 Q. And is there anything of significance in that 22 picture as it relates to your opinions about Loctite? 23 A. Yes. There is evidence of residue of thread 24 locker material on both surfaces that engage one 25 another, first on the front face of the blocker screw</p>	<p style="text-align: right;">Page 103</p> <p>1 exists is because there's not a bolt in the gun? 2 A. Well, if it were in the safe position, you 3 would have the blocker screw and its face approaching 4 and -- 5 Q. Right in there? 6 A. -- adjacent to the face of the trigger. 7 Q. Right there? 8 A. Yes, sir. 9 Q. Okay. But we see a gap here between the head 10 of the blocker screw and the trigger, right? 11 A. That's right. Well, actually it's not the 12 trigger. That gap is between the face of the blocker 13 screw with residues of thread locker and a deposit of 14 thread-locking material that at the time of our 15 examination in Houston appeared to be cured and not 16 operational, not functioning as a connection between the 17 blocker and the trigger. 18 Q. Okay. So when you say "thread locker material 19 on the face of the trigger," you're referring to what we 20 see right here? 21 A. That's exactly what I was referring to. 22 Q. And, in your opinion, when you observed it on 23 March 4th, 2014, this Loctite material here was cured? 24 A. It was ineffective. Let me put it that way. I 25 don't know how cured it was. It at least was not</p>
<p style="text-align: right;">Page 102</p> <p>1 and then on the back face of the blocker screw and then 2 on the front face of the trigger. 3 Q. And this was a photograph, as you understand 4 it, taken at the March 4th examination? 5 A. Yes. I understand so. 6 Q. Okay. And I'm going to take this exhibit and 7 put it on the Elmo here and zoom in a little bit. 8 MR. WILLS: Can you put this on the screen 9 so Tom can see this on the screen? 10 A. I got it. 11 Q. (By Mr. Wills) Okay. So just for the record 12 here, this is the trigger here, is it not? 13 A. That is correct. 14 Q. This with the threads on it is the blocker 15 screw, right? 16 A. The threads on the tip of the blocker screw. 17 And you can see from a side view where the face of the 18 blocker screw would be. 19 Q. In this photograph the safety would be in the 20 on-safe position, correct? 21 A. No. 22 Q. I'm sorry. It would be in the fire position? 23 A. It would be in the fire position. 24 Q. Because the -- there's a gap up here between 25 the sear and the trigger. But the only reason that</p>	<p style="text-align: right;">Page 104</p> <p>1 adhesive in nature and was not observed to be causing a 2 motion or interference with the proper functioning of 3 the rifle. 4 What it does show is that there -- at one 5 point in time there had been either liquid or semiliquid 6 blocker material on the face of the blocker screw. And 7 that material had been transferred by contact between 8 the blocker and the front face of the trigger leaving 9 residues on the front face of the trigger. 10 Q. Okay. Your examination was done at room 11 temperature, right? 12 A. Yes, it was. 13 Q. Whatever that was at Anderson that day? 14 A. 69, 70 degrees, something like that. 15 Q. Okay. And this Loctite that we see here and 16 any Loctite on this screw had no effect on the safe 17 operation of this gun, did it? 18 A. Not on the 4th of March of 2014. 19 Q. Okay. What physical evidence do you have that 20 this material ever interfered with the safe operation of 21 this rifle at any time before March 4th, 2014? 22 A. Scoot your pic over so I can see. 23 Q. Oh, I'm sorry, Tom. 24 A. There we go. There is no reason to apply the 25 Loctite material to the front face of the trigger. The</p>

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1 only way that the Loctite material gets on the front
2 face of the trigger is because it is transferred from
3 the blocker screw assembly to the trigger.
4 Q. Okay. But what physical evidence do you have
5 that any Loctite material in this gun ever interfered
6 with the secure engagement of the trigger and the sear?
7 A. Well, there appears to be evidence of a
8 fracture surface or an irregular surface in the cured,
9 semi-cured, whatever material is left on the front face
10 of the trigger that would be consistent with
11 Mr. Blackwell having, as he said, left his rifle with
12 the safety in the safe mode, which would be with the
13 blocker screw forcing the trigger into engagement.
14 Now, if it is ever moved when it is
15 potentially cured, semi-cured, it would fracture that
16 interface. And I believe that this irregularity that we
17 see is evidence of at least a partial adhesion that was
18 broken at some time in the past.
19 Q. Can you see the fracture that you're talking
20 about on this photograph?
21 A. Yes. You see the irregularity of the surface
22 of the Loctite material adhering to the face of the
23 trigger.
24 There is a peak at the top. There's a
25 little valley. And then there's kind of a plateau and a

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1 little jagged edge. And then the view of the front face
2 of the trigger is obscured because there is no light
3 behind it. And you don't get to see the configuration
4 of what appears to be an irregular fracture face or
5 irregular surface that is left by residues of the thread
6 locker on the trigger.
7 Q. Now --
8 A. Which the only way it got there is when it got
9 transferred from the blocker screw face to the trigger.
10 Q. And when did that first occur?
11 A. That was at the time of the manufacture of the
12 rifle.
13 Q. Because the rifle and its trigger mechanism are
14 functioned in the factory, as you know, before it leaves
15 the factory with the safety on and off, right?
16 A. Absolutely. And if there is excess material on
17 the blocker, it will be -- when you exercise the safety,
18 it causes a transfer of that excess material in part to
19 the front face of the trigger.
20 Now, if that is not removed and it does
21 not cure and provides an adhesive connection between --
22 as demonstrated by Derek Watkins in his videos, then we
23 see a displacement of the trigger with respect to the
24 sear which causes precarious engagements and/or a
25 fire-on-safety release because there's no engagement.

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1 Q. Once that adhesion is broken, as you've
2 described it, causing a fracture of the Loctite
3 material, cured or partially cured, if the safety is
4 reengaged at a later time and then taken off, would you
5 expect the gun to fire then?
6 MR. CHAFFIN: Safety what now? Reengaged?
7 MR. WILLS: Yeah. He testified about this
8 -- give you the context of the question. He said that
9 in his opinion when the safety was taken off at some
10 point, as the blocker was going away from the trigger,
11 this adhesion was broken.
12 A. At some point in time, yes.
13 Q. (By Mr. Wills) And my question is: Subsequent
14 to that if the safety is reapplied and then taken off
15 again, would you expect there to be disengagement of the
16 trigger at that time?
17 A. That would all depend on the consistency and
18 adhesive characteristics of the locker material that was
19 remaining and in place. If it was not cured
20 sufficiently so that it was hardened and would not
21 adhere, then you're probably not going to have any
22 trouble.
23 The problem arises when a gummy condition
24 of the thread locker exists and it glues the blocker and
25 trigger together so that it causes this undesired

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1 disengagement of the trigger from the sear.
2 Q. What causes Loctite in this location between
3 the head of the blocker screw and the trigger,
4 Loctite 660 specifically, to cure or become partially
5 cured?
6 A. The exact mechanism of how Loctite 660 cures
7 I'm not sure. Depending on the Henkel technical data
8 sheet, it is expected to cure if it is left for 24 hours
9 at room temperature. It is also expected to cure in a
10 shorter period of time, I think two hours, at
11 120 degrees Fahrenheit.
12 Now, if there is sufficient excess
13 material to inhibit the advertised performance of the
14 material so that it remains in an adhesive condition, in
15 an uncured condition, and it will remain for an extended
16 period of time in an uncured position if the Loctite
17 excess is exposed to the air, it has to have air
18 excluded from contact with the Loctite for it to cure
19 appropriately and positively in the advertised period of
20 time. This is exposed to the air.
21 Therefore, there will be an indeterminate,
22 uncured condition that will exist for what is apparently
23 an extended period of time based on complaints that are
24 arriving from the field.
25 Q. So when you examined it on March 4, was this

<p style="text-align: right;">Page 109</p> <p>1 Loctite cured or uncured? 2 A. I don't know, but it was not causing any 3 problem at that time. 4 Q. Okay. 5 A. The condition of the Loctite did not at that 6 time cause any adhesion. I don't know whether it was 7 fully cured or not. I suspect that it was partially 8 cured, but it may -- and it may have been fully cured 9 for all I know. I just have no way of determining that. 10 And there was no indication given by 11 Remington that that was of any concern in the progress 12 of this particular examination. We saw no problem being 13 caused, Belk and I; and it never occurred to us given 14 our experience with Loctite and our usage of it over 15 many, many years that this kind of difficulty would be 16 experienced by usage of that kind of material. 17 Q. You knew before the day of this exam that 18 Loctite to work properly had to cure, right? 19 A. Yes. 20 Q. And you knew Loctite in general was anaerobic, 21 right? 22 A. I knew -- it is an anaerobic adhesive. There 23 are many of those out there that are cyanoacrylate 24 based, many of them. And they require exclusion from 25 atmospheric exposure.</p>	<p style="text-align: right;">Page 111</p> <p>1 get his rifle and case out of the closet -- you 2 understand he did that? 3 A. Yes. 4 Q. As he was going and walking up to that gun in 5 its case to get it, the gun sitting there with a 6 precarious engagement? 7 A. Yes. I believe at that time -- because he did 8 not touch the safety. At that time there was 9 insufficient engagement. There was a precarious 10 engagement in place. 11 Q. Okay. And, in your opinion, to a reasonable 12 degree of certainty, how much engagement was there as 13 the rifle was sitting in the closet with the safety off? 14 A. Well, there's a range of engagements that I 15 considered to be inadequate; and they would be less than 16 10 thousandths, certainly less than 5 thousandths. 17 I have target rifles that I have purposely 18 set and other rifles, and I have numerous guns that have 19 engagements that range in the 10 to 14 thousandths 20 range. You get down below 5 thousandths and you're on a 21 very slippery slope because now you have reduced the 22 engagement to a place where the actual contact is on the 23 radii of the release edges. 24 Q. Well, what was it in this case, in your 25 opinion? What was the amount of engagement?</p>
<p style="text-align: right;">Page 110</p> <p>1 Q. And you knew that the typical anaerobic 2 environment or intended anaerobic environment for 3 Loctite to cure and set is between the mating surfaces 4 of threads? 5 A. Or between -- very close, something like less 6 than 2 thousandths of an inch of clearance. If you have 7 greater than a couple thousandths of inch, the Henkel 8 people don't guarantee that it will cure appropriately. 9 Q. Let me see if I understand what you're saying. 10 At the time of this incident, in your opinion, was any 11 Loctite between the blocker screw and the trigger that 12 was causing adhesion, was it cured or uncured? 13 A. Yes. I have no way of knowing that. What I do 14 know is that if the event took place as is reported by 15 Mr. Blackwell that he did not touch the trigger and he 16 only laid it on his arm as demonstrated in his 17 deposition and that particular impact was sufficient to 18 release a precarious engagement between trigger and 19 sear, it certainly had been there at some point in time 20 and there had been no regain, which would have been the 21 case had there not been a cycling of the safety back to 22 the safe position, which would supposedly have returned 23 the trigger to 70 percent engagement. 24 Q. So if I understand what you're saying is that 25 on that morning as Mr. Blackwell goes to the closet to</p>	<p style="text-align: right;">Page 112</p> <p>1 A. I'd say it was less than 5 thousandths. 2 Q. All right. 3 A. And it was probably engaged on the radii of the 4 release edge of sear and trigger, which would be less 5 than a 5 thousandths overlap. 6 You see, what you've got is a rounded 7 surface on a rounded surface that is insecure; and that 8 engagement encourages a jar-off or vibrated release. 9 Q. And have you done any testing of Remington 10 model 700 rifles with X-Mark Pro triggers and 11 engagements of less than 10 thousandths of an inch 12 between the trigger and the sear? 13 A. No. But I have some over 60 years of 14 experience with rifles of a great many types and nature 15 that I know what is -- and also as an engineer, I know 16 what is a secure engagement and what is not and what 17 attributes to a secure engagement and what contributes 18 to an insecure or precarious one. 19 And I will assure you that, in my opinion, 20 it was less than 5 thousandths of an inch. But that's 21 just an opinion, and I have no empirical data to support 22 that. But if it had been 10 thousandths, I don't think 23 it would have jarred off. 24 Q. If the engagement on this rifle when 25 Mr. Blackwell was pulling it out of the case was</p>

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1 10 thousandths or more, you would have been of the
2 opinion that the only way the rifle was firing then is
3 if the trigger is pulling?
4 A. That's correct, although the trigger pull
5 forces may have been significantly decreased because of
6 the reduced engagement. It would probably, in my
7 opinion, have required some contact with the trigger by
8 something in order to cause it to fire. But I believe
9 it to have been less than 5 thousandths of an inch at
10 the time of the release.
11 MR. CHAFFIN: Let's take a lunch break.
12 You're obviously not nearly through.
13 MR. WILLS: Obviously not. Let's take a
14 lunch break.
15 THE VIDEOGRAPHER: Off the record at
16 12:37.
17 (Luncheon recess)
18 THE VIDEOGRAPHER: We're back on the
19 record at 1:54.
20 Q. (By Mr. Wills) Okay, Mr. Butters. Before lunch
21 you indicated that you offered your opinion that the
22 McNeil incident and the discharge of the rifle there
23 when being handled by Anthony Blackwell occurred in your
24 opinion as a result of a jar-off mechanism, correct?
25 A. Yes, I believe so. A precarious engagement

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1 release by jar-off.
2 Q. And as I understood what you were saying and
3 showing us, you believe the jar-off occurred when he
4 rested the stock or front of the gun on his left arm?
5 A. That is according to his deposition.
6 Q. Okay. Do you have his deposition here? I
7 looked. I didn't see it in your stuff.
8 A. It is in one of the thumb drives.
9 Q. Okay. Well, I just want to go over here -- I'm
10 going to show you a part of this deposition.
11 A. Whose?
12 Q. Mr. Blackwell.
13 A. Yes.
14 Q. At the bottom of page 83 I asked him this
15 question: "At the moment the gun fired, were you
16 supporting it or holding it, the weight of the gun,
17 entirely with your right hand?"
18 And on the top of page 84 would you read
19 his answer, the top three lines there?
20 A. Okay. You want his response read at the top of
21 that page?
22 Q. Yes.
23 A. That's starting at line 1 on page 84 of the
24 Blackwell deposition. His answer is, "Yes, sir. I had
25 my hand around the pistol grip and the butt was up

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1 underneath my arm and I just pulled the rifle out."
2 Q. Does he make any reference there or anywhere
3 else in his transcript that you recall of setting the
4 rifle -- having the rifle fire as he set the stock or
5 front end on his left arm?
6 A. That was what I got from a visual
7 interpretation of his demonstration on the deposition
8 video.
9 Q. But here you would agree that he says when the
10 gun fired, he was supporting it or holding it, the
11 weight of the gun, entirely with his right hand. That's
12 what he said here. Am I right?
13 A. And he said yes. And down at line 11 it says,
14 "Yes, sir. The rifle was set almost level."
15 Q. Okay. Thank you. That's all I've got on that.
16 Can I have it back, please?
17 (Exhibit 95H marked)
18 MR. WILLS: Could you pull up Exhibit 95H,
19 please?
20 Q. (By Mr. Wills) Mr. Butters, going to 95H, this
21 is your -- we've already identified this. This is your
22 letter to Mr. Gary of March 31, right?
23 A. The 4th of March -- this is my letter --
24 Q. Right.
25 A. -- that I sent to him in response to the demand

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1 that you had placed on his firm.
2 Q. Okay. And I just want to read the first
3 sentence to you, and I have a question about it.
4 A. Very well.
5 Q. It says, "In accordance with my commission to
6 participate in a joint examination of the subject model
7 700 Remington rifle for the purpose of determining
8 whether its condition and configuration would be
9 conducive to an uncommanded discharge that occurred in
10 the absence of a depressed trigger, I was present in
11 Houston at Anderson Laboratories and active in that
12 procedure."
13 Do you see that?
14 A. Yes, sir.
15 Q. What did you understand the purpose of your
16 being hired as an expert at that time to be?
17 A. To develop a factual appreciation of the
18 condition of the rifle, a fact-based understanding of
19 the condition of the rifle and what effect that might
20 have had on its reported discharge in the absence of a
21 trigger pull.
22 Q. Had you been told at this time by Mr. Gary or
23 lawyers from his office that this rifle had fired at the
24 time of the incident without anyone touching the
25 trigger?

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1 A. That was my understanding, that it was an
2 uncommanded discharge that occurred in the absence of a
3 trigger pull.
4 Q. Did anybody from his office tell you that
5 Mr. Blackwell had ever said to anybody that he may have
6 bumped the trigger at the time of the shooting?
7 A. Yeah. That was in one of the reportages that
8 was -- I think it was to the local police department. A
9 typical response when such a thing happens is the gun
10 handler says, believing it should not discharge in the
11 absence of any contact with the trigger, thinks, you
12 know, what's left?
13 Q. Were you aware at the time of this examination
14 in March of 2014 or this report of March 31, 2014 that
15 Mr. Blackwell had related to law enforcement that he may
16 have bumped the trigger?
17 A. I don't know. I may have. I may not.
18 MR. CHAFFIN: Object to the form of the
19 question.
20 A. I'm not sure exactly.
21 Q. (By Mr. Wills) Based on that examination, it is
22 my opinion as reflected in the functional notes which I
23 recorded, the photographic and optical micrographic
24 documentation, condition and configuration of critical
25 fire control parts and the observation and reportage of

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1 the results of scanning electron microscopy that the
2 rifle displayed no conditional or configurational
3 defects that would cause it to discharge in the absence
4 of a depressed trigger."
5 Do you see that?
6 A. That is correct.
7 Q. And that's what you reported to Mr. Gary on
8 March 31, 2014?
9 A. That's right. In the absence of any further
10 information with regards to the history and the
11 potential condition of the rifle.
12 Q. Okay. And when you say that the rifle
13 displayed no conditional defects, what do you mean by a
14 conditional defect?
15 A. Well, there was no dirt that appeared to be
16 influential. There did not appear to be any alteration
17 of the adjustments, critical adjustments, on the rifle.
18 It appeared quite normal.
19 Q. Okay.
20 A. And Belk and I were at a loss to add anything
21 to the basic understanding of why it might have
22 happened.
23 Q. All right.
24 A. And based on the examination. The examination
25 just simply didn't provide enough factual basis for

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1 anything else than what's expressed right there in that
2 letter.
3 Q. When you say no configurational defects, the
4 rifle didn't have any configurational defects, are you
5 talking about like design defects?
6 A. No. Configurational, as it's mentioned there,
7 is with regard to a malformation of any of the internal
8 parts.
9 Q. Okay.
10 A. It did not appear to have a sear that was
11 improperly shaped or formed.
12 Q. Or worn?
13 A. Or worn. It all appeared within what I would
14 expect the normal condition of that rifle would be in
15 good order.
16 Q. And when you conducted the examination and
17 testing of this rifle, you were specifically, as a
18 professional engineer, looking for any, as you described
19 them, conditional defects which could cause it to fire
20 without a trigger pull, right?
21 A. Anomalies that would make it an unreliable
22 mechanism.
23 Q. Okay.
24 A. And I found no such anomalies based on the
25 examination that was conducted on the 4th of March.

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1 Q. And you found no configurational defects
2 either. True?
3 A. That's right. We just -- there were none
4 identified. Everything appeared good.
5 Q. What was the purpose of conducting scanning
6 electron microscopy?
7 A. That was a question to satisfy any questions
8 regarding the configuration and the makeup of the
9 centered metallic part that is the sear and the trigger.
10 And Dr. McLellan as a metallurgist was
11 interested in what is this material made of? What, if
12 any, are the microscopic characteristics that might
13 indicate that there was a problem with any of these
14 internal parts.
15 Q. Did you find any?
16 A. He did not. I am not competent to do anything
17 close to what -- I have a certain amount of
18 metallurgical capabilities but I am not a metallurgist
19 and I depend on Dr. McLellan with his judgment with
20 regard to that. And he did not, to the best of my
21 knowledge, discover anything that was likely to cause
22 any trouble. We didn't find any problem with the shape
23 and the makeup of that trigger and sear.
24 Q. And he told you that after the SEM was done,
25 did he not?

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1 A. Well, yeah. I sat right with him and watched
2 him during the whole thing in case there was something
3 that showed up, that I really wanted to be aware of
4 that.
5 Q. Okay.
6 A. And we discussed it as it proceeded.
7 Q. And did you discuss it with Mr. Belk as well?
8 He was there, too, right?
9 A. Yes, yes.
10 Q. And all three of you concluded that there were
11 no defects in the configuration of either the trigger or
12 the sear from a metallurgical standpoint?
13 A. We identified none.
14 Q. But you looked for them?
15 A. You bet. But you must be aware that we did not
16 at that time have -- or even to date have any piece part
17 drawings nor assembly drawings, which wouldn't have been
18 absolutely necessary at that time because what we were
19 looking for was obvious nonconformities with an
20 appropriate configuration. And we didn't find any.
21 Q. Okay. Now, you referred just a minute ago to
22 Dr. McLellan as a metallurgist. I referred to him as a
23 metallurgist earlier; and you said, no, he's a materials
24 expert.
25 A. Well, he's a materials scientist of which his

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1 metallurgical capabilities are internationally known.
2 He's an exceptional scientist.
3 Q. So a materials scientist is somebody who's
4 expert in more than just metals, right?
5 A. That's correct.
6 Q. For example, you would expect him to have
7 expertise in evaluating and analyzing products like
8 Loctite. True?
9 A. No. I'm not sure that he would because the
10 Loctite is a chemical formulation, and I don't know
11 whether he would be able to do that or not. I would not
12 think it would be one of his primary capabilities.
13 He might have that, but bear in mind that
14 Dr. McLellan is a scientist of considerable capability.
15 Some of his activities have been with regard to nano
16 materials in the carbon fields.
17 Q. Okay.
18 A. So he is more of a materials man than he is a
19 chemist and individual -- I would not expect him to have
20 the abilities that a chemical analyst would have with
21 respect to the curing qualities of that, but he might
22 for all I know.
23 Q. Are you a chemical analyst?
24 A. No. I'm not a chemical engineer. I've taught
25 basic chemistry, but that's nowhere near given me any

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1 kind of ability to analyze the complex curing processes
2 that might take place with something like Loctite.
3 I get to observe the beginning and the end
4 and what happens during the cure. But so far as
5 explaining what's going on in the material, I don't have
6 that capability.
7 Q. Have you spoken with or in any way consulted
8 with any chemical engineers or chemical analysts about
9 performance of Loctite in connection with this case?
10 A. No, no.
11 Q. Are you relying on any work done by chemical
12 engineers or chemical analysts for any opinions you've
13 expressed about Loctite being related to the cause of
14 this discharge?
15 A. No. The only thing I have about the
16 performance of Loctite with regard to this particular
17 matter is that which has been supplied by Remington.
18 Q. Okay. Fair enough.
19 (Exhibit 8C marked)
20 MR. WILLS: Would you pull up 8C, please.
21 Q. (By Mr. Wills) Mr. Butters, I'm showing you
22 what we've marked as 8C and Tom can --
23 A. Is that the same thing as Watkins 4?
24 Q. No. This is a jpeg of it, I believe.
25 MR. CHAFFIN: Looks like the same picture.

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1 Q. (By Mr. Wills) I want to zoom in --
2 MR. WILLS: If I can have the operator
3 zoom in on the window there.
4 Q. (By Mr. Wills) All right. Do you see what we
5 pulled up on the screen?
6 A. I certainly do.
7 Q. Okay. Now, looking at this view, you referred
8 earlier to fracture in Loctite deposit on the trigger.
9 Do you recall that?
10 A. Yes.
11 Q. Can you see that here?
12 A. Yes.
13 Q. Where is it?
14 A. There is an uneven interface that is present on
15 the surface of the trigger, which you have just blocked
16 in with the highlighter.
17 Q. Go ahead.
18 A. That's what I described to you previously. It
19 has the peak and the small valley and then the plateau
20 area with an irregular shape toward the left of your
21 block.
22 Q. Okay.
23 A. Now, that indicates to me that there has been
24 an irregular separation of that material with other
25 materials that were at one time in contact with it or

<p style="text-align: right;">Page 125</p> <p>1 actually continuous with it. 2 Q. Do you know when that separation occurred? 3 A. I have no way of knowing that. 4 Q. Do you know whether it occurred at the factory 5 before the rifle was shipped? 6 A. Well, the transfer, I believe, took place at 7 the factory. 8 Q. Okay. I'm just talking about this fracture 9 here. When did it occur? 10 A. The transfer of the materials took place at the 11 factory. Subsequent to that, if we are to give credence 12 to Mr. Blackwell's deposition, he ordinarily left that 13 rifle with the safety in the safe mode, which would have 14 meant that these parts were principally and most of the 15 time in contact with the other. And if they cured in 16 that condition, there would be a continuous interface of 17 some kind of Loctite in some state of cure between the 18 front face of the trigger and the face of the blocker 19 screw. 20 Now, if the safety is now placed to the 21 fire position from the safe position and there is a gap 22 left, this means that that particular continuous deposit 23 of material has been broken in some way. 24 Q. How do you know that's what happened in this 25 case?</p>	<p style="text-align: right;">Page 127</p> <p>1 occasion or whether there were multiple fractures or 2 not. But there has certainly been a fracture, and 3 that's what I'm telling you. 4 Q. On a scientific basis is there any evidence 5 that it was ever stuck to the face of the trigger, the 6 blocker screw? 7 A. Yes. 8 Q. What is that? 9 A. Because there is material on both of the face 10 of the blocker screw and the front face of the trigger 11 and that the only place that that material could have 12 gotten onto the front face of the trigger is by a 13 transfer from the blocker screw to the front face of the 14 trigger. 15 Now, if it remains in contact, which it 16 would, in the safe position or at least in sufficiently 17 close contact so that there is a bridge of material 18 between the two, then if there is hardening that takes 19 place and it is now separated or even if there's not 20 hardening that takes place and they are then separated, 21 you will find a fracture of whatever adhesive bond there 22 might have been. 23 Q. And that's not based on any of your testing, 24 right? 25 A. No. That's based on what I'm seeing right here</p>
<p style="text-align: right;">Page 126</p> <p>1 A. That's the only way that you can get the two 2 pieces apart. If they are indeed together, which they 3 will be, if you have the safety in the safe mode and 4 you've pushed the safety to the fire position, there's a 5 likelihood that there will be a separation between the 6 two parts. And that would necessarily require a 7 breakage. 8 Q. All right. Well, there would have been pushing 9 of the safety from the safe position to the fire 10 position on several occasions before the day of this 11 occurrence, right? 12 A. Yeah. I'm not saying it all happened at one 13 time. It could have been stuck and broken and stuck and 14 broken on a number of occasions. There's no way of me 15 to tell and no way for you to tell or anyone else that I 16 know of if there had been a multiple establishment and 17 then breakage of the continuous deposit of material. 18 Q. So would it be speculation for you or me or 19 anybody else to say that this blocker screw because of 20 Loctite on the trigger was stuck to the trigger on more 21 than one occasion? 22 A. I'm not saying that it was. 23 Q. I know. 24 A. What I did was to tell you that there is no way 25 of establishing whether it was stuck on only one</p>	<p style="text-align: right;">Page 128</p> <p>1 in front of me. My eyes do not lie. It is uneven 2 surface that is typical of a separation process that 3 must necessarily have taken place between the front face 4 of the trigger and the face of the blocker screw. 5 Q. What do you understand the temperature to have 6 been at the time of the McNeil shooting? 7 A. Well, it was in late December in 8 southeastern -- or eastern North Carolina. I would say 9 that it could have been in the 30s or 20s perhaps. 10 Q. Do you think the temperature had any role in 11 the cause of this gun accidentally discharging at the 12 time of the occurrence? 13 A. I don't know. You know, I have no way of 14 determining that. It could have, but I don't know that 15 it did. 16 Q. At this point based on what you know, would 17 that be speculation to suggest that temperature had any 18 role in this? 19 A. Well, not really speculation. The thing is is 20 that the temperature that it is likely to have been at 21 at the time of the discharge is -- are right in the 22 middle of those ranges of temperatures that are reported 23 and were tested for at Remington. 24 Q. Well, would you have -- have you made any 25 effort to look at the historical records for that area</p>

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1 and find out what the temperatures were being reported
2 that day?
3 A. No, I have not. But there's no reason for me
4 to expect it to have been especially hot or especially
5 cold. You see, from the time that I was 11 years old
6 until the time I was in my 20s I had -- my family and I
7 lived in Wilmington, North Carolina. That was my home.
8 Q. Uh-huh.
9 A. And I know what the weather is like over there
10 in December. It can be chilly. It can be a little
11 warmer. It's not going to be frigid, but it's not going
12 to be hot either.
13 Q. And you gave us a range that you would have
14 expected the temperature to be at the time of this
15 occurrence as what?
16 A. Oh, I don't know. It could have been as low as
17 freezing.
18 Q. And?
19 A. I would not expect it necessarily to have been
20 much warmer. It might have been a little warmer than
21 that. But it is still within the range of temperatures,
22 say, from minus 10 degrees Fahrenheit to, say, plus 50,
23 which is a region of temperatures that is reported to
24 Remington as the temperatures at which a number of these
25 complaints have been registered.

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1 Q. Well, this rifle had been stored in the
2 Blackwell house, right?
3 A. That's my understanding. In the closet.
4 Q. And what were the temperatures of storage?
5 A. I'm not sure. I don't know. I don't think it
6 would have been quite as cold as it might have been
7 outside, but I don't think it would have necessarily
8 been much warmer. He did not have central heating in
9 the house.
10 Q. That's space heaters?
11 A. Yeah. A space heater perhaps. But since he
12 was out of town so much of the time, he very likely was
13 not using the space heater to warm a place that he was
14 not occupying.
15 Q. You understand this incident happened at about
16 11:15 a.m. on December 23rd?
17 A. I understand it was sometime in the morning. I
18 didn't know exactly.
19 Q. If I were to tell you that the temperature was
20 recorded in Wattsville which is near --
21 A. Yeah. I know where Wattsville is.
22 Q. -- to be 69.8 degrees Fahrenheit at the time of
23 the occurrence, would that surprise you?
24 A. No. I wouldn't be surprised at all.
25 Q. I thought you said it didn't get that warm.

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1 A. No. I didn't say that. I said that I would
2 not expect it to be very much above the normal range of
3 temperatures which is certainly -- I told you that as
4 reported was somewhere between minus 10 and, say, plus
5 50 or 60. And that's in that same range.
6 I'm not saying that I know anything about
7 the precise temperature, Dale. I'm just saying that it
8 is not a temperature that was unknown to Remington to
9 have this particular rifle exposed to and to have
10 supported or unsupported reports of discharge.
11 Q. Are you aware of any test data that shows that
12 a Remington 700 rifle with an X-Mark Pro trigger with
13 excess Loctite between the blocker screw and the trigger
14 will fire in the absence of a trigger pull at any time
15 when the temperature is above freezing?
16 A. No. Derek Watkins did not -- he terminated his
17 experiments. He terminated his temperature tests at a
18 point at which I believe he had determined that it
19 should trigger a recall. And he had not yet necessarily
20 developed all of the material that would enable a
21 determination with metaphysical certainty as to the
22 response of cured or uncured Loctite 660.
23 Q. So the answer to my question -- or my question
24 was: Are you aware of any test results or test data of
25 any test conducted on these trigger mechanisms at levels

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1 above freezing where discharges without trigger pulls
2 could occur due to Loctite?
3 MR. CHAFFIN: Object to the form of the
4 question.
5 A. No. I know of no tests that have been
6 conducted by Remington or anyone else except potentially
7 the arms service people who were evaluating complaints
8 from the field.
9 Q. (By Mr. Wills) And having reviewed those, you
10 have never seen any of those reports reflect a
11 replication or a duplication of a firing without a
12 trigger pull on an X-Mark Pro caused by Loctite, have
13 you?
14 MR. CHAFFIN: Replication of a
15 duplication?
16 A. What's this, now?
17 MR. WILLS: Using his terms.
18 Q. (By Mr. Wills) Go ahead.
19 A. No. Remington has not pursued that particular
20 data.
21 Q. But you're not aware of any of these armed
22 service reports or product service or customer reports
23 that you've looked at where Remington was able to or did
24 duplicate at the armed service level an accidental
25 discharge because of Loctite?

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1 A. No. In spite of reportages that they had
2 inadvertent discharges, and those inadvertent discharges
3 were reported over a wide range of temperatures to
4 include the one that you have given me to understand was
5 present at the time of the Blackwell accidental
6 discharge.
7 (Exhibit 10 marked)
8 MR. WILLS: Could you pull up Exhibit 10,
9 please?
10 Q. (By Mr. Wills) I'm showing you what we've
11 marked as Butters Exhibit 10. At some point in
12 examination of the subject rifle on March 14, 2014, the
13 trigger mechanism was disassembled, right?
14 A. That's correct.
15 Q. Exhibit 10 shows a photograph of Jack Belk in
16 the disassembly process, does it not?
17 A. That is correct.
18 (Exhibit 10A marked)
19 MR. WILLS: Let's see Exhibit 10A.
20 Q. (By Mr. Wills) Exhibit 10A is another
21 photograph of Mr. Belk disassembling the trigger
22 mechanism, correct?
23 A. Yes, sir.
24 (Exhibit 10B marked)
25 Q. (By Mr. Wills) And 10B is another photograph of

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1 Mr. Belk's disassembly of the trigger mechanism on the
2 Blackwell rifle. True?
3 A. Yes.
4 Q. In 10B we can see here that he has already
5 gotten the sear out, right?
6 A. That is correct.
7 Q. The sear is laying there on the blue witness
8 paper, right?
9 A. Right.
10 Q. And on that device where he's using a punch,
11 he's getting ready to get it so he can get the trigger
12 out, right?
13 A. That's correct. The trigger pivot pin he's
14 moving so he can pull the trigger out of the assembly.
15 MR. WILLS: Let's look at Exhibit 11,
16 please.
17 (Exhibit 11 marked)
18 Q. (By Mr. Wills) Now, Exhibit 11 is a photograph
19 of the trigger mechanism completely disassembled at the
20 exam at Anderson Labs on March 4th, right?
21 A. That's correct. With the exception of the
22 safety lever itself, which has been left attached to the
23 side plates and body.
24 Q. And that was left attached even, as far as you
25 know, up -- you saw the recent Anderson photographs.

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1 It's still attached, right?
2 A. Sure. And nobody's questioning what the safety
3 could or could not do. It was not really a ...
4 Q. And just so we're clear, the disassembly, the
5 parts that you looked at in the SEM's were the trigger
6 and the sear?
7 A. That's correct.
8 Q. And they're shown in the lower left-hand corner
9 of Exhibit 11. Those are the two parts?
10 A. That is correct.
11 (Exhibit 11A marked)
12 Q. (By Mr. Wills) Now, let's look at Exhibit 11A,
13 please. This is another view of all the parts
14 disassembled by Mr. Belk, right?
15 A. Yes.
16 (Exhibit 11B marked)
17 Q. (By Mr. Wills) 11B. Do you recognize what's
18 shown in 11B?
19 A. Yes.
20 Q. What is that?
21 A. That is the upper surface of the trigger.
22 Q. Anything out of the ordinary there?
23 A. No. I do not detect any anomalies there.
24 Q. If there were any anomalies in any --
25 A. I beg your pardon?

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1 Q. If there were any anomalies on any of the parts
2 of the subject trigger mechanism, you would have noted
3 that in your notes that you were taking for everybody,
4 right?
5 A. That is true. Since they're absent, it's
6 obvious that we did not detect any.
7 (Exhibit 11C marked)
8 MR. WILLS: Let's look at Exhibit 11C,
9 please.
10 Q. (By Mr. Wills) Now, I'm not an SEM expert, but
11 as I understood what these represent when they were done
12 at the exam, these show the trigger and the sear, right?
13 A. That's correct.
14 Q. And they're laying on top of that blue paper
15 that we just saw?
16 A. That's correct.
17 Q. And Dr. McLellan was trying to get an idea of
18 where he wanted to take SEM analyses of these two parts?
19 A. That's correct. And observe the configuration
20 and condition of the parts in those areas.
21 Q. So before taking them over to get them done and
22 after disassembly, pulled these over and put them down
23 there and made all these markings on this paper, right?
24 A. Yes.
25 Q. Okay.

<p style="text-align: right;">Page 137</p> <p>1 MR. WILLS: Let's go to 11D. 2 (Exhibit 11D marked) 3 Q. (By Mr. Wills) This is just a close-up of what 4 we just looked at concerning the trigger and the sear, 5 is it not? 6 A. Yes. 7 Q. And as we look at this, as it's oriented on the 8 screen there now in front of you -- Tom, look at the 9 screen in front of you. 10 The arrow coming from the top pointing 11 down is pointed towards one side of the trigger, right? 12 A. That's right. 13 Q. And the other side of the trigger on the 14 opposite side is where the blocker screw would contact 15 the trigger? 16 A. That's right. This particular photograph 17 appears to have been taken after the parts had been 18 degreased and cleaned so as to be examined in the SEM. 19 As you may be well aware, any 20 contamination on the parts placed in the SEM vacuum 21 chamber will result in a corruption of the cathode 22 getter and the development of vacuum which is required 23 by the SEM in order for it to function. 24 Q. And how were they degreased? 25 A. There was a solvent that was placed on them,</p>	<p style="text-align: right;">Page 139</p> <p>1 contacts when it resets the trigger back under the sear. 2 And you will note that there does not appear to be any 3 residue there at all. I would say this is after the 4 cleanup. 5 (Exhibit 11E marked) 6 Q. (By Mr. Wills) Let's go to Exhibit 11E, if you 7 would. 8 A. (Witness complies.) 9 Q. What does that depict? 10 A. That looks like a couple of beakers full of 11 material. I can't tell what's in there. It may be the 12 trigger and it may be the sear that's in there. 13 Q. Okay. If there were testimony and evidence 14 that photo 11E shows the trigger and the sear being 15 cleaned in the beakers with the acetone -- 16 A. I have no reason to contest that. 17 Q. All right. And if the evidence was that those 18 pictures of the parts in the acetone with the beakers 19 was taken after 11D, the one we just looked at before, 20 would you have any explanation then for how any Loctite 21 came to be gone from the face of the trigger? 22 A. If the soaking operation took place after the 23 previous picture that we discussed, it may have been 24 that these surfaces may have been manually wiped clean 25 prior to being placed in the soak.</p>
<p style="text-align: right;">Page 138</p> <p>1 one that didn't leave any residue, perhaps some methyl 2 ethyl ketone. 3 Q. Acetone? 4 A. It could have been acetone. 5 Q. Were they placed in beakers and then shaken to 6 get all the stuff off of them? 7 A. I don't recall how that was applied. The 8 technician is -- I believe to be the one that -- the SEM 9 technician I believe to be the one who prepared the 10 subject parts for introduction into the SEM vacuum 11 chamber. 12 Q. And that preparation and cleaning of the parts 13 would have been done under the direction and supervision 14 of Dr. McLellan, correct? 15 A. Yes. At his direction, simply because you 16 cannot conduct an SEM examination with contaminated 17 parts. 18 Q. Right. 19 A. It messes up the process. 20 Q. Looking at Exhibit 11D in close-up that we have 21 on the screen in front of you, that's looking down along 22 the edge of the face of the trigger where it would 23 intersect, right? 24 A. Yeah. That's the front face of the trigger. 25 And that is the place where the blocker screw tip</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. Do you have any recollection of that? 2 A. No. I don't remember having observed the 3 cleanup process in any way. 4 Q. Who was responsible for the cleanup process? 5 A. That would be -- I think his name is Brandon. 6 Whatever the -- I have his card in my file that I gave 7 you. And he was the SEM technician who is the one who 8 really ran the controls and prepared the materials for 9 SEM exam. 10 Q. He was there for Anderson Labs? 11 A. He was Anderson Labs' personnel. 12 Q. And Anderson Labs had been hired -- and 13 Dr. McLellan works at Anderson Labs, right? 14 A. No. He don't work at -- he utilizes their 15 facilities on occasion. But I don't think that he is an 16 employee or an associate of Anderson Labs. 17 Q. But Anderson Labs was retained by the 18 plaintiffs in this case, correct? 19 A. Yes. And I think that's appropriate because it 20 has perhaps the best equipment -- 21 Q. Not questioning that at all. 22 A. -- and personnel in the Houston area. 23 Q. Not questioning that at all. 24 (Exhibit 12 marked) 25 Q. (By Mr. Wills) Let's look at Butters 12,</p>

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1 please.
2 A. (Witness complies.)
3 Q. Up on the screen here is Exhibit 12. It's
4 what's been represented to me to be Dr. McLellan's notes
5 from the March 4th inspection. Have you seen these
6 before?
7 A. It wasn't acetone. It was methyl alcohol,
8 according to Dr. McLellan's notes.
9 Q. Okay.
10 A. There are a number of suitable solvents.
11 Q. Either one would work, right?
12 A. Yeah. Suitable solvents. You know, I
13 currently keep denatured alcohol on my bench just for
14 the purpose of cleaning parts, et cetera. I also have
15 acetone and MEK.
16 Q. Have you seen those notes before?
17 A. No. I've never seen these.
18 Q. You haven't been provided these?
19 A. No.
20 (Exhibit 12A marked)
21 Q. (By Mr. Wills) Let's look at Exhibit 12A. I'll
22 represent to you that these are notes taken by
23 Dr. Fowler at the exam on March 4th. Have you seen
24 these before?
25 A. Yeah. Fowler is the metallurgist that

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1 Remington brought with them, isn't he?
2 Q. Right. Have you seen his notes before?
3 A. No. I never have.
4 Q. So you haven't seen this document here then I'm
5 showing you?
6 A. I beg your pardon?
7 Q. You've never seen this before?
8 A. No, no.
9 (Exhibit 12B marked)
10 Q. (By Mr. Wills) Let's go to 12B. I'll represent
11 to you that these are notes taken by Seth Bredbury on
12 the March 4th exam. Have you seen these before?
13 A. No, I have not.
14 (Exhibit 12C marked)
15 Q. (By Mr. Wills) Let's look at 12C.
16 A. (Witness complies.)
17 Q. And I'll represent to you that these are notes
18 taken by Jim Ronkainen at the March 4th exam. Have you
19 ever seen these before?
20 A. No.
21 Q. If you look at the top, it says, "Butters and
22 Belk examined rifle first per Tom's 700 protocol."
23 Do you see that?
24 A. Yes.
25 Q. What is your 700 protocol?

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1 A. I have a protocol that you have been provided
2 on numerous occasions in times past that organizes a
3 series of examinations to develop what trigger pulls
4 are, the tests that Remington and I typically employ in
5 attempting to determine what the condition of the
6 mechanism is.
7 Q. These have existed for long before the time of
8 the development of the X-Mark Pro, right?
9 A. Oh, yes.
10 Q. And you have those in a written form, right?
11 A. Yes, indeed.
12 Q. On March 4th did you and Mr. Belk examine the
13 rifle in accordance with your written protocol?
14 A. With what was appropriate, the appropriate
15 parts of it. There's some of the things for the
16 Walker/Haskell patent trigger that don't apply
17 whatsoever because, for example, if we're interested in
18 a connector, there's not one on the X-Mark Pro.
19 Q. So you wouldn't do a screwdriver test?
20 A. No, we wouldn't. And what we did was to
21 cherry-pick the model 700 as a kind of standard place to
22 start from that would be appropriate to see if we could
23 determine if there was any difficulties with the X-Mark
24 Pro trigger that we had.
25 (Exhibit 14 marked)

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1 Q. (By Mr. Wills) Okay. Let's go to Exhibit 14,
2 please.
3 A. (Witness complies.)
4 Q. I'm showing you what we've marked as
5 Exhibit 14. Have you been provided prior to today with
6 Remington's drawing for the blocker screw?
7 A. No.
8 (Exhibit 15 marked)
9 Q. (By Mr. Wills) Let's go to Exhibit 15, please.
10 A. It looks like I would expect to see it, though.
11 Q. Okay. And I'm just trying to establish what
12 you have and haven't seen.
13 A. No. I haven't seen this next one either.
14 Q. Okay. Exhibit 15 is a drawing for the trigger
15 engagement screw?
16 A. Right. And that's what it appears to be like
17 when I --
18 MR. CHAFFIN: I believe it is on the disk
19 I've given you. You just haven't had a chance to look
20 at that yet.
21 A. It very likely is.
22 MR. WILLS: I'm only asking him for his
23 recollection. That's all I can do.
24 A. But I don't recall having seen this particular
25 one.

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1 (Exhibit 17 marked)
2 Q. (By Mr. Wills) All right. Let's go to 17.
3 Skip 16, go to 17. Exhibit 17, I'll represent to you,
4 is a drawing of the sear safety can. Have you seen that
5 before? Or 17 is a drawing of the trigger blank. Have
6 you seen that before?
7 A. No, I haven't. But it doesn't have any real
8 surprises for me. And I had none of these at the time
9 of the Anderson Labs inspection.
10 (Exhibit 17A marked)
11 Q. (By Mr. Wills) And Exhibit 17A is another
12 drawing of the trigger. You haven't seen this before
13 either or you haven't reviewed it before today?
14 A. No. This just indicates machining operations
15 on the blank.
16 MR. WILLS: Let's go off the record for a
17 second.
18 THE VIDEOGRAPHER: Off the record at 2:39.
19 (Recess taken)
20 THE VIDEOGRAPHER: Media 3. We're back on
21 the record at 2:46.
22 Q. (By Mr. Wills) Mr. Butters, when did you first
23 form the opinion in this McNeil case that the shooting
24 was causally related to the presence of Loctite in the
25 trigger mechanism?

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1 A. After I had been made aware of the discovery
2 that had been produced by Remington which indicated that
3 it was influential.
4 Q. And that occurred, would it be fair to say,
5 after Remington announced the recall of the X-Mark Pro
6 triggers in April --
7 A. Yeah, probably. You've got the date that I
8 became aware of that information. It's in my records
9 here. I would have to say -- give me my time sheet, and
10 I'll tell you when I became initially aware of that.
11 I would suggest that that was on the 19th
12 and 20th of January of 2015.
13 Q. Okay. And so -- strike that.
14 If the recall was announced in April of
15 2014, would it be fair to say that your opinion about
16 Loctite being a causally related factor in this shooting
17 was not developed until after the announcement of the
18 recall?
19 A. That is true. And let me point out that I had
20 heard that there was some question of whether or not
21 Loctite was involved or not. And I could not at that
22 time concede that the proper and appropriate use of
23 Loctite would create any difficulties unless it were in
24 places that it really didn't have any business being and
25 there was no positive purpose for its presence.

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1 So my response was, We ain't hearing all
2 the story, that Loctite may be there but in my
3 experience Loctite doesn't cause any problems if it's
4 not where it's not supposed to be.
5 Q. But as of January of 2015, once you got
6 Remington's records, then you said, Now I see the story?
7 A. Now I see pictures that Watkins has taken
8 showing the motion of the trigger in a direction that
9 would create a release of the sear due to uncured or
10 partially cured Loctite residues.
11 Q. Okay.
12 A. And that was shown to me in these offices,
13 Mr. Chaffin's offices, on that day, which I had not seen
14 prior to that.
15 Q. Okay. As indicated in your letter to Mr. Gary
16 of March 31, 2014, at least as of that time your opinion
17 was that the gun fired because of a trigger pull. True?
18 A. I could not rule out a trigger pull. I
19 couldn't find any other reason, but I couldn't rule out
20 a trigger pull. I have no other positive data upon
21 which to base any hypothesis that was supported by fact.
22 See, my investigation is based in the
23 determination of fact and the reasonable conclusions
24 that may be reached therefrom. And I didn't have any
25 facts.

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1 Q. When did you receive -- well, strike that.
2 When did you first review -- strike that.
3 You were told when you were first hired by
4 the Gary law firm that this was -- you were being hired
5 to investigate this incident which allegedly happened in
6 the absence of a trigger pull, right?
7 A. That is correct.
8 Q. Okay. So you knew at that time that there was
9 at least a claim or a potential claim that the gun fired
10 without pulling the trigger?
11 A. Yeah.
12 Q. Then after that you participate in this
13 examination, right?
14 A. That's correct.
15 Q. And you issued your report on March 31 to
16 Mr. Gary. At that point in time had you reviewed or
17 seen the law enforcement reports?
18 A. Yes.
19 Q. Okay. So you were aware that in the law
20 enforcement reports Mr. Blackwell said, The gun went off
21 and I may have bumped the trigger?
22 MR. CHAFFIN: Is that exactly what he
23 said, or are you just making up or paraphrasing?
24 MR. WILLS: Paraphrasing.
25 MR. CHAFFIN: Okay. I object to the form

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1 of the question.
2 Q. (By Mr. Wills) You were aware of that before
3 your report of March 31, 2014?
4 A. Yes. That's common response with those people
5 involved in this kind of thing. They think, It's not
6 supposed to do that.
7 Q. But as of that point in time, that, in fact,
8 was your opinion, too, based on everything you'd seen up
9 until then that he must have pulled the trigger?
10 A. Oh, I had no means of confirming or denying,
11 either one. I didn't have sufficient information to
12 establish any specific cause of discharge. And I
13 indicate that in my letter to Mr. Gary's firm in
14 response to your demand for what testimony was likely to
15 be.
16 Q. Gotcha.
17 MR. WILLS: Would you give me Exhibit 18.
18 (Exhibit 18 marked)
19 Q. (By Mr. Wills) While he's looking for that,
20 Tom, here's my question: Have you seen or listened to
21 the law enforcement interview of Mr. Blackwell?
22 A. No. All I've seen is a printout of --
23 Q. What he said?
24 A. Well, it's a police report is what it is
25 apparently.

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1 Q. Well, we had a court reporter prepare a
2 transcript of Mr. Blackwell's interview; and we've
3 marked it here as Exhibit 18. Just want to go over some
4 things here about this.
5 The interview supposedly occurred on
6 December 23rd, 2011 at 1:38 p.m. Do you see that on the
7 front?
8 A. Yes.
9 Q. Now, that would have been just over two hours
10 after this shooting, right?
11 A. That's correct.
12 Q. And if we go to page 27 -- direct your
13 attention there -- Ms. Harvey is asking him questions
14 there in the middle of that page. Do you see that?
15 A. Yes.
16 Q. And I'll represent to you that Ms. Harvey is
17 employed by one of the North Carolina law enforcement
18 agencies.
19 A. Yes.
20 Q. And at line 11 she asked this question. "Take
21 it out. Okay. So you're in the process of taking it
22 out of the case and putting it up on the wall. At what
23 point during that process does the gun go off?"
24 Do you see that?
25 A. Yes.

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1 Q. He says, "I'm going to say it was about the
2 time I pulled the gun out of the case. Then I was going
3 to lay the case down and the gun went off. I guess I
4 must have bumped the trigger. I'm not sure what
5 happened, but the gun went off. And when it went off, I
6 dropped it. It scared me, and I didn't know what
7 happened. And they run in the room and asked me what
8 happened, what the noise was. I told them, I said, 'My
9 gun just went off.' I said, 'I don't know. I must have
10 bumped the trigger.' And that's what happened."
11 Do you see that?
12 A. Yeah.
13 Q. Had you been provided with this information
14 before?
15 A. Yes. I knew that he was in a state of
16 confusion about what he had done. He didn't really know
17 what happened. But there is the assumption on the part
18 of gun handlers in cases like this. I found that many
19 of them say, It ain't supposed to shoot unless the
20 trigger's pulled. I must have done it without me
21 knowing that I'd done it.
22 Q. But you've also had cases where you've
23 investigated accidental discharges of firearms,
24 Mr. Butters, where you concluded that even though the
25 gun handler said in a particular case that they didn't

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1 pull the trigger, that they must have?
2 A. Yes, sir, absolutely.
3 Q. So you know that there are times when a gun
4 handler may be incorrect about whether or not he pulled
5 the trigger?
6 A. That's right. What my investigation involves
7 is fact-based truths that are derived from those facts.
8 And if there is sufficient fact-based truths to make it
9 impossible for the gun to have fired in the absence of a
10 trigger pull, I will so testify.
11 Q. My question goes to your investigation of
12 shooting accidents where a gun handler claims, I didn't
13 pull the trigger but, on the other hand, you concluded
14 after reviewing the evidence they were wrong; in my
15 opinion, they did pull the trigger.
16 A. Every incident has its own set of pertinent
17 facts. And if you have any reference to any particular
18 one, I will be glad to flesh out my positions and how
19 they were derived in any one of those.
20 (Exhibit 19A marked)
21 Q. (By Mr. Wills) Let's go to Exhibit 19A.
22 You're aware that following this shooting
23 the case generated quite a bit of publicity out there in
24 North Carolina?
25 A. I understand it did.

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1 Q. And you're aware that the North Carolina State
2 Bureau of Investigation conducted a lengthy
3 investigation into this shooting, right?
4 A. Yes.
5 Q. And I'll represent to you that Exhibit 19A is a
6 report from the North Carolina State Bureau of
7 Investigation as produced to us by the plaintiffs'
8 attorneys in this case. Have you seen this before?
9 A. I have probably seen excerpts, if not the
10 entire thing. I'm not sure whether I've seen this
11 entire document. If you point me to the correct pages,
12 I'll do my best.
13 Q. Let's go to the sixth page of this document.
14 A. All right.
15 Q. Tell me when you're there.
16 A. All right. There we go. Where it says --
17 Q. Case record No. 1 at the top.
18 A. Yeah. It says WEG four zips and 735 at the
19 bottom, page 6 of 22.
20 Q. No. I'm looking at the one that says -- I
21 guess mine says page 8 of 23. It must be out of order.
22 No. That's a 6, isn't it?
23 MR. CHAFFIN: Can't really read it here.
24 A. It's very difficult to read. Packet page 8 of
25 23.

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1 Q. (By Mr. Wills) Is that the same thing?
2 A. All right. Here we are.
3 Q. Do you see where it says Exam Type about
4 two-thirds of the way down?
5 A. Results of Examination?
6 Q. No. Two pages before that. Okay?
7 A. Okay. Page 6 of 23.
8 Q. Yeah. There's a section that says Exam Type,
9 "firearms function test, item 1; description, (1)
10 Remington .308 rifle, model 700," right?
11 A. Yes.
12 Q. Have you seen this before?
13 A. Yes. I see that.
14 Q. Have you seen this before?
15 A. If I have, I do not recall. It's not a
16 remarkable piece of document.
17 Q. And it says down there Examiner, Morin, Neal J.
18 Do you see that?
19 A. Yes. I see that.
20 Q. Now go to page 8, which is two pages back where
21 you were.
22 A. (Witness complies.)
23 Q. The title of this page at the top is Laboratory
24 Report, correct?
25 A. Yes.

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1 Q. And what is the date of this report?
2 A. 16 March, 2012.
3 Q. You've read this before, have you not?
4 A. I would suspect that I have.
5 Q. And --
6 A. At least this page.
7 Q. If you go down about -- it says Item Submitted
8 on January 4th, 2012. Do you see that?
9 A. Yes.
10 Q. And it's referring to K-1, which is the subject
11 rifle, right?
12 A. Yes.
13 Q. We saw that engraved on the bottom of the
14 trigger guard earlier.
15 A. Absolutely.
16 Q. And then it says Type Examination Requested
17 right under that. Do you see that?
18 A. Yes.
19 Q. Firearms Examination and Identification. And
20 the next section is entitled what?
21 A. Results of Examination.
22 Q. And the first entry here says that "The K-1
23 firearm functions properly."
24 Do you see that?
25 A. Yes, sir.

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1 Q. And then it says, "The K-1 firearm has a
2 single-action trigger pull greater than 3-1/2 pounds but
3 less than or equal to 4 pounds."
4 Do you see that?
5 A. Yes.
6 Q. That would be fairly consistent with the
7 trigger pull that you-all found when you examined it,
8 right?
9 A. That is correct. And the condition as we saw
10 it at Anderson Labs.
11 Q. And this examination is occurring within three
12 months of the time of the shooting in question, is it
13 not?
14 A. I would say four months, three months.
15 Q. And would you have expected during this
16 examination the firearms examiner, Mr. Morin, to have
17 functioned the safety on the rifle?
18 A. If he concludes that it functions properly, it
19 would require that he assure himself that the safety was
20 indeed a functional feature.
21 Q. Would you expect that if Mr. Morin in his
22 functioning of the safety found that the rifle would
23 discharge without a trigger pull, that he would make
24 note of that in his report?
25 A. Yes. If it had taken place.

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1 Q. Does that lead you to believe that in his
2 inspection and testing of this rifle, the rifle never
3 fired in the absence of a trigger pull?
4 A. His inspection was not able to or it did not
5 address that particular feature sufficiently to
6 determine whether it would or would not. The only thing
7 that it determined is that during his examination it
8 exhibited its intermittent characteristic and did not
9 malfunction.
10 Q. In his examination there was nothing
11 intermittent about the performance of the rifle, was
12 there?
13 A. No.
14 Q. It performed consistently throughout, did it
15 not?
16 A. The intermittency that I am referring to is the
17 potential discharge in the absence of a trigger pull
18 caused by an improper support for the sear by the
19 trigger occasioned by the relationship between the
20 internal parts. And he did not achieve any of those
21 relationships; therefore, I would not expect him to
22 discover that.
23 Q. And if your opinion in this case is that
24 Loctite between the blocker screw and the trigger caused
25 this gun to fire without a trigger pull on

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1 December 23rd, 2011, my question is: Why didn't it
2 produce a discharge without a trigger pull when the
3 rifle was tested within three months by Mr. Morin?
4 A. He did not subject it to sufficient range of
5 tests to determine whether that took place.
6 Q. What would be a sufficient range of tests?
7 A. That is not indicated. That is a --
8 Q. I'm asking your opinion.
9 A. That is an omission in his report that enables
10 us to question the extent of his investigation and,
11 therefore, the overall accuracy of his reportage.
12 Q. Well, if the rifle did not discharge without a
13 trigger pull in any of Mr. Morin's testing, do you have
14 any scientific explanation for that?
15 A. Yeah.
16 Q. What is it?
17 A. The trigger was not being displaced by any
18 condition at that time that would have enabled a
19 discharge in the absence of a trigger pull. Simple as
20 that.
21 Q. Okay. And why was it not exhibiting that
22 condition when he tested it three months after the
23 occurrence; but, yet, it's your opinion that it did
24 exist at the time of occurrence?
25 A. Well, for the same reason as some of these

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1 field-reported incidents. There's one guy that said he
2 functioned his rifle over 70 times, and it failed three
3 of those times.
4 Now, who's to say that that same sort of
5 occurrence might not have been occurring during
6 Mr. Morin's examination.
7 Q. Who's to say that it did occur during his
8 examination?
9 A. Nobody. But there is insufficient support nor
10 information in his report to state one way or other
11 based on what he believes his examination to have
12 determined.
13 Q. In the same exhibit let's go over to page 12 of
14 23, which is Mr. Morin's firearms worksheet.
15 Down under the Notes section I've
16 highlighted part of it midway through it. "Barrel code
17 info (KD) indicates the K-1 firearm was produced in May
18 of 2009. The K-1 firearm has the X-Mark Pro user
19 adjustable trigger. The trigger on the K-1 firearm
20 appears to be at the approximate factory setting of
21 3-1/2 pounds. The safety on the K-1 firearm is function
22 correctly with no problems found. The K-1 firearm was
23 test fired three times with three of the K-2
24 cartridges."
25 Do you see that?

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1 A. Yes.
2 Q. Does that provide you any more information
3 about the nature and extent of the testing performed by
4 Mr. Morin?
5 A. No. All he's done is say, Yeah, it will go
6 bang when the trigger is pulled and the safety is on
7 fire.
8 Q. Well, if he had found in his testing that the
9 gun would fire without pulling the trigger, you would
10 expect him to note that?
11 A. I would expect him to note it, but I would not
12 expect him based on his examination to have necessarily
13 detected any such condition.
14 (Exhibit 19B marked)
15 Q. (By Mr. Wills) Let's go on to Butters
16 Exhibit 19, please. Actually, let's do 19B first.
17 Do you have 19B or 19 in front of you or
18 19A?
19 MR. CHAFFIN: Here's 19B.
20 A. There we go.
21 Q. (By Mr. Wills) Okay. Now, 19B again is this
22 document produced apparently from the law enforcement
23 records to us by plaintiffs' attorney, says Statement of
24 Qualifications, and it's related to Neal J. Morin from
25 the North Carolina Crime Laboratory in Raleigh. Do you

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<p>1 see that?</p> <p>2 A. I see.</p> <p>3 Q. Have you seen this document before?</p> <p>4 A. No, I have not.</p> <p>5 Q. Do you know anything about Mr. Morin's</p> <p>6 qualifications when it comes to examining and testing</p> <p>7 firearms?</p> <p>8 A. He's got a long list of attributes that he</p> <p>9 lists and his apparent job record.</p> <p>10 Q. And if you turn to the second page of this, the</p> <p>11 next-to-the-bottom paragraph under Courtroom Experience</p> <p>12 it says that from March 2002 to February 2012 he</p> <p>13 testified as an expert witness. How many times is</p> <p>14 indicated there?</p> <p>15 A. It says here 118 times.</p> <p>16 Q. All right. Now let's go to Exhibit 19.</p> <p>17 (Exhibit 19 marked)</p> <p>18 Q. (By Mr. Wills) Have you seen the FBI laboratory</p> <p>19 report before?</p> <p>20 A. I don't think I've seen the whole thing. I</p> <p>21 think I've seen -- I think I've seen some of it.</p> <p>22 Q. Have you seen the FBI's report of examination</p> <p>23 of the subject rifle?</p> <p>24 A. Yes. Apparently the Department of Justice got</p> <p>25 involved in this for some reason or other.</p>	<p>1 that the bullet exited the bedroom in which</p> <p>2 Mr. Blackwell was standing through a window and that the</p> <p>3 hole in the shades and the window and the screen,</p> <p>4 et cetera, were consistent with a discharge from within</p> <p>5 that room.</p> <p>6 Q. Have you seen before today and reviewed in your</p> <p>7 work in this case this page, WEG000718?</p> <p>8 A. I would suggest that I have, but I have no</p> <p>9 direct recollection of it. Given the magnitude of the</p> <p>10 documentation that's been supplied, I would have to</p> <p>11 admit inability with regard to specifically remember</p> <p>12 this. But there's stuff on here that I'm aware of.</p> <p>13 Q. I want to go to this second full paragraph.</p> <p>14 Again, it's talking about specimen K-1. That's the</p> <p>15 subject rifle, right?</p> <p>16 A. Yes.</p> <p>17 Q. It says, "The K-1 rifle functioned normally</p> <p>18 when test fired at the laboratory." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And then down about two-thirds there's a</p> <p>21 section that says, "Unless otherwise noted." And</p> <p>22 there's a description there. Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. "Submitted firearms are test fired." It says</p> <p>25 1, "in the condition they are received in the</p>
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<p>1 Q. Have you seen what I've marked as Exhibit 19</p> <p>2 before?</p> <p>3 A. I don't recall seeing it in its entirety here.</p> <p>4 I very likely got to review sections of it, but I don't</p> <p>5 specifically recall any of that.</p> <p>6 Q. Okay. Now --</p> <p>7 A. I'll be glad to address it right now. Any</p> <p>8 questions you have I'll be glad to give you whatever</p> <p>9 answers I'm capable of.</p> <p>10 Q. Thank you. On the first page the date of this</p> <p>11 report of examination is March 26, 2013, right?</p> <p>12 A. That's correct.</p> <p>13 Q. And if you go to the page that's Bates labeled</p> <p>14 on the bottom WEG000718 -- would you go there, please.</p> <p>15 A. 712?</p> <p>16 Q. 718.</p> <p>17 A. Oh, 718. Yes.</p> <p>18 Q. Did you review the FBI's conclusions about</p> <p>19 their inspection of the rifle and their description of</p> <p>20 how they tested it previously?</p> <p>21 A. Yes. I am aware of this. I believe I have</p> <p>22 seen some pages from this. I don't think I've seen</p> <p>23 everything in its entirety.</p> <p>24 Q. Have you seen this page before, 718?</p> <p>25 A. Well, I know I saw materials that indicated</p>	<p>1 firearms/toolmarks unit; 2, with ammunition from the</p> <p>2 laboratory's reference ammunition file; 3, in a manner</p> <p>3 that allows for testing of available modes of fire such</p> <p>4 as manual safety engaged, manual safety disengaged,</p> <p>5 single action, double action, semiautomatic, fully</p> <p>6 automatic, et cetera." Do you see that?</p> <p>7 A. Yeah.</p> <p>8 Q. Now, would you expect that if the testing and</p> <p>9 test firing of this rifle the rifle had discharged</p> <p>10 without a trigger pull, that the FBI examiner would make</p> <p>11 a note of that?</p> <p>12 A. I would think so.</p> <p>13 Q. Have you seen any evidence of that having</p> <p>14 occurred in this case?</p> <p>15 A. No. He does not report it.</p> <p>16 Q. Do you have an opinion as to why the subject</p> <p>17 rifle did not discharge without a trigger pull in any of</p> <p>18 the testing conducted by the FBI?</p> <p>19 A. It was in a mode at the time that was either a</p> <p>20 combination of not tested for or that the condition of</p> <p>21 the rifle's fire control parts was such that there was</p> <p>22 no interference with their function. So if I wanted to</p> <p>23 find out whether it would shoot, I would put cartridges</p> <p>24 in it, put the safety in the fire position and pull the</p> <p>25 trigger after the bolt was fully closed. And I would</p>

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1 observe indeed it did discharge when I pulled the
2 trigger, and I would not be a bit surprised.
3 Q. In fact, you would expect that every time that
4 you took the subject rifle and loaded a round in the
5 chamber and took the safety off and pulled the trigger,
6 the rifle would fire every single time, right?
7 A. If it didn't fire when I closed the bolt or
8 pushed the safety off, I would say yes, that's true.
9 But if it did not do that, I would expect it and would
10 indeed -- fully expect it to fire every time I pulled
11 the trigger with the safety off and the chamber loaded
12 with a live round.
13 Q. My question was that. It wasn't the other
14 part. My question was: Would you expect this rifle to
15 fire every time that the safety was disengaged and the
16 trigger was pulled?
17 A. Only if you did not have an intervening
18 malfunction. And that was the -- if there was an
19 intervening malfunction, that would prevent the normal
20 firing of the rifle; and that should be so noted.
21 Apparently he did not achieve that; and
22 when he pulled the trigger, the gun went bang as it was
23 supposed to.
24 Q. When in the life of this rifle from manufacture
25 in 2009 up until the present did this rifle, in your

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1 opinion, ever experience a discharge without a trigger
2 pull?
3 A. I think the most probable occasion would be on
4 the day of the accident, the 23rd of December, when the
5 lady was killed and the other two were injured.
6 Q. Did it ever fire without a trigger pull or
7 release the firing pin without a trigger pull in any of
8 the usage of the rifle up until the day of the shooting,
9 in any of the testing of the rifle since the day of the
10 shooting?
11 A. There is no record of such a thing, and I do
12 not believe it to have occurred. That does not preclude
13 the event that I believe to have been the result of an
14 improper engagement of internal parts of the fire
15 control that occasioned a jar-off discharge.
16 MR. WILLS: Move to strike everything that
17 starts with "but that does not preclude" as
18 nonresponsive.
19 Q. (By Mr. Wills) Let's go to Exhibit 21.
20 (Exhibit 21 marked)
21 Q. (By Mr. Wills) Mr. Butters, it's my
22 understanding that in June of 2014 the -- I believe it's
23 the district attorney in North Carolina where this
24 happened issued a death investigation report. Are you
25 aware of that?

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1 A. I don't recall having seen this document.
2 Q. Okay. Let's back up for just a second. When
3 you're investigating a claimed accidental shooting, it's
4 not unusual for law enforcement to get involved, right?
5 A. Absolutely not.
6 Q. And it's not unusual for you as an expert to
7 review law enforcement reports about the facts of an
8 occurrence as part of your investigation. True?
9 A. That's true.
10 Q. Now, turn to the second page of this.
11 A. Pardon me?
12 Q. Turn to the second page of this document that
13 we've marked as Exhibit 21.
14 A. Very well.
15 Q. And the first highlighted entry on Background
16 Information that I have there in the middle states that
17 "Blackwell received the rifle as a Christmas gift in
18 2010 and had only fired the weapon once."
19 Do you see that?
20 A. Yes.
21 Q. Is that consistent with your understanding of
22 the circumstances?
23 A. Yes.
24 Q. The last entry says, "Blackwell had put a scope
25 on his rifle approximately three to four weeks prior to

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1 the shooting but had not sighted the scope."
2 Is that consistent with your understanding
3 of the facts?
4 A. No. I don't have any understanding whatsoever
5 with his installation of the scope or what he had done
6 subsequent to that, only that at the time of the
7 accident he had fired the rifle one time and one time
8 only.
9 Q. Were you aware before today that Mr. Blackwell
10 had installed the scope on this rifle sometime before
11 the accident?
12 A. No. You know, I presume he did because there
13 was a scope on the rifle at the time of the accident.
14 But the timing of that is totally irrelevant to my
15 understanding of the events.
16 Q. Well, if he did put a scope on the rifle three
17 to four weeks before the shooting and then picked the
18 rifle up with the safety on, under your understanding of
19 the facts someone had to get ahold of the rifle from
20 then until the day of the shooting and take the safety
21 off, right?
22 A. Yes.
23 Q. And we don't know who that was?
24 A. And load the chamber.
25 Q. And we don't know who did any of those things?

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1 A. No. There's no record of anyone doing that.
2 Q. Because Mr. Blackwell's testimony is he always
3 put it up with the safety on and he always put it up
4 unloaded, right?
5 A. Yes. That is what he said.
6 Q. Look at the next page here, December 23rd,
7 2011. Let's go down to the third of the entries that
8 I've highlighted here.
9 A. Okay. What page is that, Dale?
10 Q. It's the third page of this exhibit, Tom.
11 A. Stand by. Okay.
12 Q. It says, "Blackwell stated he 'guessed he
13 bumped the trigger, not sure what happened when it went
14 off.'" Do you see that?
15 A. Yeah. That appears to be a quotation from the
16 interview that was conducted within a few hours of the
17 event.
18 Q. Can we agree that if Mr. Blackwell had bumped
19 the trigger with the safety off, you would expect this
20 rifle to fire?
21 A. It all depends how much contact he had. I
22 think there would be a good likelihood that it would.
23 Q. And would you agree that if this rifle fired at
24 the time of this shooting because Mr. Blackwell had
25 bumped the trigger with at least 4 pounds of force and

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1 the rifle fired at that time because of that, that this
2 shooting would not be related to the presence of any
3 Loctite anywhere in this gun?
4 A. If it fired due to a trigger retraction with
5 the safety in the fire position and the chamber loaded
6 and the bolt closed on that chamber, the rifle did what
7 it would be expected to do.
8 I do not have confidence that that was the
9 way that the event took place based on the other
10 information that we have received.
11 Q. Okay. But if it did take place that way, this
12 shooting would not be due to any manufacturing defects
13 in this rifle. True?
14 A. If it fired due to a trigger pull, that would
15 be what the rifle would be expected to do. I just do
16 not believe that the facts that have been developed in
17 this matter fully support such a scenario.
18 Q. If the rifle fired because the safety was off,
19 the rifle was loaded and Mr. Blackwell bumped the
20 trigger, if it fired under those circumstances, who
21 would be responsible for the shooting and this death and
22 these injuries? If that's the way it happened, who
23 would be responsible for that?
24 A. Now, what you're asking me to do is to provide
25 a particular verdict. My job is to provide sufficient

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1 data so that the trier of fact may make an informed
2 decision. It's not to support one side or the other.
3 And I do not think that is within the scope of my
4 activities in this matter.
5 Q. Well, you've expressed opinions in this case
6 about Remington's negligence, have you not?
7 A. Yes.
8 Q. Would it be your opinion that if the shooting
9 happened in the way I just described it -- safety off,
10 gun loaded, trigger inadvertently depressed or pulled by
11 Mr. Blackwell -- that Mr. Blackwell would have been
12 negligent? You don't have to say yes or no. Do you
13 have an opinion?
14 A. What you're asking me to do is come to a
15 conclusion in the matter, and that's not my position.
16 Q. No, no. I'm not at all. You've offered a
17 conclusion already or an opinion already about
18 Remington's negligence. I'm asking you a question. If
19 those were the facts in this case, would you believe the
20 shooting would be due to Mr. Blackwell's negligence?
21 A. Boy, that's walking a thin line between an
22 event that might take place outside the conscious
23 awareness of an individual's knowledge or observation
24 and his intentional response.
25 Q. Let me see if I can --

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1 A. It sounds to me as though that's quite
2 argumentative. I do not feel comfortable in getting
3 into that area because that's not where -- that's not my
4 expertise.
5 Q. Okay. Well, let me ask it this way.
6 A. I don't guess about those kind of things, Dale.
7 Q. Let me ask you this question. Would you agree
8 that whoever put the rifle up in the closet in the case
9 with a round in the chamber and the safety off, would
10 you agree that was negligence?
11 A. It would have been inappropriate to do. That's
12 something we have no knowledge of.
13 MR. WILLS: Let's take a break.
14 THE VIDEOGRAPHER: Off the record at 3:28.
15 (Recess taken)
16 THE VIDEOGRAPHER: We're back on the
17 record at 3:35.
18 (Exhibit 26 marked)
19 Q. (By Mr. Chaffin) Mr. Butters, I'm going to show
20 you what we've marked as Exhibit 26. As Mr. Chaffin
21 indicated off the record, he knows you've looked at
22 this. Is that right?
23 A. I beg your pardon?
24 Q. He knows you've looked at this before?
25 A. I know exactly what that is.

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1 Q. Okay. And this is a chart prepared of some of
2 Mr. Watkins' test results in late March and early April
3 of 2014 on 700s with X-Mark Pros and the excess Loctite
4 issue, correct?
5 A. Yes.
6 Q. Earlier you had identified that four of the
7 test guns of Mr. Watkins were found to under certain
8 circumstances discharge without pulling the trigger,
9 right?
10 A. Yes.
11 Q. And when you said that, were you referring to
12 the first four rifles listed on this chart?
13 A. Yes.
14 Q. This chart --
15 A. With the notation 1, 2, 3 and 4.
16 Q. Now, let's just look at these individually for
17 a second. Rifle No. 1, it's got a serial number. And
18 then it has a range of testing from minus 20 degrees
19 Fahrenheit up to 30 degrees Fahrenheit in -- I was going
20 to say 10-degree increments. But the first increment is
21 20 degrees. Do you see that?
22 A. Yeah.
23 Q. Now, that rifle according to this did not
24 discharge without a trigger pull at 20 below and at
25 zero, correct?

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1 A. That's correct.
2 Q. But then it did discharge without a trigger
3 pull at plus 10, plus 20, plus 30. Do you see that?
4 A. That's correct.
5 Q. Okay. Have you formed an opinion, sir, as to
6 why this particular rifle did not discharge without a
7 trigger pull at minus 20 and at zero?
8 A. Yes, I have.
9 Q. What is that opinion?
10 A. That is that the adhesive characteristics of
11 the excess and misplaced thread sealant, Loctite thread
12 sealant -- Loctite thread locker was not sufficient to
13 cause a displacement of the trigger with respect to the
14 sear at minus 20 and at zero.
15 However, the adhesive characteristics at
16 plus 10, plus 20 and plus 30 were sufficient to cause
17 enough displacement of the trigger so that the rifle
18 would fail without a trigger pull.
19 Q. What were the adhesive characteristics that
20 prevented it from firing without a trigger pull at 20
21 below and zero?
22 A. Well, there's a difference in stickiness. How
23 do I say that? The adhesive characteristics. Do you
24 understand adhesive characteristics?
25 Q. Maybe I don't.

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1 A. Well, apparently. It's stickiness, how much
2 viscosity and how much adhesion that there is present
3 between the blocker and the trigger so that the trigger
4 when the blocker is moved to a forward position to
5 enable a sear release, that the trigger is pulled
6 forward enough to make it a precarious engagement.
7 Q. Well, chemically what is happening --
8 A. I have no idea. I am not an adhesives chemist.
9 Q. Okay. Got that.
10 Now, we'll go through some other specific
11 rifles in a second. But are you aware of any test
12 results conducted by Mr. Watkins or Remington where any
13 of these X-Mark Pro rifles discharged without a trigger
14 pull because of the presence of 660 Loctite other than
15 the failures that are documented here?
16 A. No. I think that there are very likely many
17 others in the population of rifles that were available
18 to Mr. Watkins. But at the end of the testing that
19 identified these particular -- these four, he decided
20 that that was a sufficient number to get management
21 involved in the consideration of a recall.
22 And I think that that was what his apparent
23 intent was, not to find out, as I said, the metaphysical
24 certainty of a failure at any one particular identified
25 condition other than a range of circumstances.

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1 Q. All right. Well, here's my question, though.
2 You say you're relying for your opinions in this case on
3 Remington's test results, right?
4 A. That's right.
5 Q. What test results by Remington are you aware of
6 where any of these X-Mark Pro rifles ever discharged
7 without a trigger pull because of Loctite when the
8 temperature was above freezing?
9 MR. CHAFFIN: Say that again. Are you
10 aware of any?
11 Q. (By Mr. Willis) Of any Remington test results --
12 MR. CHAFFIN: Test results?
13 MR. WILLS: Yes.
14 MR. CHAFFIN: Object to the form of the
15 question because you know there's never been a test at
16 that temperature.
17 MR. WILLS: I'm just asking him. I'm
18 asking for his basis of his opinion.
19 MR. CHAFFIN: It's an improper deceptive
20 question when counsel knows there has never been such a
21 test performed.
22 Q. (By Mr. Willis) Mr. Butters, are you aware of
23 any testing ever conducted by anybody at temperatures
24 above freezing with Remington X-Mark Pro triggers and
25 Loctite where they concluded that Loctite was causing

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1 the guns to fire without a trigger pull?
2 A. Any quoted fail or failure of function of any
3 of these rifles as noted in Butters Exhibit 26 I would
4 consider to be a critical malfunction.
5 Q. Okay. I get --
6 A. And this document speaks for itself. It either
7 passed or it failed.
8 Q. I get it.
9 A. If it failed, it's dangerous. And if it
10 failed, it would, in my opinion, as demonstrated by the
11 video, the microscopic high-speed video that was taken
12 by Derek Watkins of the displacement of the trigger with
13 respect to the sear is what caused the precarious and
14 improper engagements that would result in a discharge in
15 the absence of a trigger pull.
16 MR. WILLS: Move to strike as
17 nonresponsive.
18 Q. (By Mr. Wills) Mr. Butters, we've established
19 that you have not done any testing on your own with
20 Loctite and X-Mark Pro triggers, right?
21 A. That's correct. I'm dependent upon Remington's
22 videos and their responses to the tests that they did
23 run.
24 Q. Well, what -- strike that.
25 Are you aware of any test data on

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1 Remington X-Mark Pro triggers that indicate that at
2 temperatures above freezing those rifles would fire
3 without a trigger pull because of Loctite?
4 A. That's what's indicated on this. It says
5 plus 10, plus 20, plus 30; and they're a fail. And my
6 interpretation of the word "fail" is that there's a
7 condition that is resulting from the exposure to
8 temperatures of rifles that had been treated with
9 Loctite that are subject to a discharge in the absence
10 of a trigger pull, which is undesired, dangerous and
11 renders the product unfit for its originally intended
12 design and purpose.
13 MR. WILLS: Move to strike as
14 nonresponsive.
15 Melinda, please read my question back.
16 Q. (By Mr. Wills) And, Mr. Butters, listen to my
17 question here that she's going to read back to you.
18 (The record was read as requested.)
19 A. It would appear that we have it before you. I
20 believe this particular document indicates that it will
21 do so.
22 Q. (By Mr. Wills) Where on this document does it
23 indicate that tests were performed at above freezing?
24 A. The first serial number, item No. 1, says it
25 passes at minus 20.

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1 MR. CHAFFIN: It says 40 degrees on there,
2 I believe.
3 A. Passes at zero and fails at plus 10, plus 20
4 and plus 30. Now, my interpretation of the word "fail"
5 is that it does not perform in accordance with
6 specifications. And if it does not perform in
7 accordance with specifications, it is defective.
8 Q. (By Mr. Wills) Under the Fahrenheit temperature
9 scale, what is freezing?
10 A. 32 degrees Fahrenheit.
11 Q. Okay. Does this show any test results with
12 failures above --
13 A. Oh, above freezing.
14 MR. CHAFFIN: What does plus 30 mean,
15 Dale?
16 MR. WILLS: 30 degrees Fahrenheit.
17 MR. CHAFFIN: How far above 30?
18 MR. WILLS: It means 30 degrees.
19 MR. CHAFFIN: No. It says plus 30.
20 MR. WILLS: Yeah. As opposed to minus 30.
21 It's minus 30 below outside. No. It's plus 30.
22 MR. LOTHSON: 32, freezing.
23 A. Yeah. All right. My misinterpretation. I
24 missed it by 2 degrees. So we'll split hairs with you.
25 30 degrees and 32 degrees are 2 degrees Fahrenheit

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1 apart.
2 MR. LOTHSON: One is above; one is below.
3 THE WITNESS: I beg your pardon?
4 MR. WILLS: He's not going to say anything
5 else.
6 Q. (By Mr. Wills) From a science standpoint
7 freezing temperature of water is 32 degrees Fahrenheit,
8 right?
9 A. That is correct.
10 Q. Okay. And are you aware or are you relying on
11 any test results of Remington X-Mark Pro triggers where
12 they were tested at 32 degrees or above and experienced
13 a discharge without a trigger pull because of Loctite?
14 A. No, I am not. And I apologize for my
15 misinterpretation of your question and my
16 misinterpretation of the plus 30.
17 It is inconsequential so far as my
18 conclusions are concerned, but I will agree that
19 30 degrees Fahrenheit is cooler than 32 degrees
20 Fahrenheit and certainly cooler than the 50, 60, 65,
21 70 degrees Fahrenheit that is reported from the field on
22 armed service documentation.
23 Q. Mr. Butters, if you wanted to conduct
24 scientific experiments with X-Mark Pro triggers and 660
25 Loctite at temperatures above 32 degrees Fahrenheit,

<p style="text-align: right;">Page 181</p> <p>1 that would be something that you could do, right?</p> <p>2 A. Yes. I would have to engage the services of an</p> <p>3 environmental lab and conduct those. I would also have</p> <p>4 to be provided with sufficient specimen rifles in order</p> <p>5 to do so, and I have access to neither on an immediate</p> <p>6 basis.</p> <p>7 Q. Do you have any plans to conduct any such</p> <p>8 testing or to have such testing conducted on your behalf</p> <p>9 in the future?</p> <p>10 A. No. And I believe those kinds of activities</p> <p>11 would be on the border of irrelevancy.</p> <p>12 Q. And why do you say that?</p> <p>13 A. Because there have been so many reports from</p> <p>14 the field of discharges that took place in the absence</p> <p>15 of a trigger pull that were intermittent and</p> <p>16 uncommanded-type discharges that I really don't see the</p> <p>17 utility of going to that.</p> <p>18 We know that there are failures that may</p> <p>19 occur due to the presence of uncured Loctite. So why</p> <p>20 pursue that at this point? Remington has done the work</p> <p>21 for us.</p> <p>22 MR. WILLS: Move to strike as</p> <p>23 nonresponsive.</p> <p>24 Q. (By Mr. Wills) Mr. Butters, you've reviewed the</p> <p>25 YouTube video by Mr. Otto, right?</p>	<p style="text-align: right;">Page 183</p> <p>1 a variation in the response of the parts of the fire</p> <p>2 control under those circumstances that is only</p> <p>3 predictable within a range of temperatures, not</p> <p>4 predictable on an individual basis. They may pass or</p> <p>5 they may fail intermittently.</p> <p>6 Q. What is that range which, in your opinion,</p> <p>7 these events would be predictable?</p> <p>8 A. Somewhere between about minus 10 degrees or</p> <p>9 zero degrees Fahrenheit up to as much as 60 or</p> <p>10 70 degrees Fahrenheit. There are reports from the field</p> <p>11 of -- in May, June, July of rifles that have experienced</p> <p>12 that kind of discharge and sent back to arms service.</p> <p>13 Q. Have you examined any of the armed service</p> <p>14 rifles?</p> <p>15 A. No, I have not. They have not been available</p> <p>16 to me.</p> <p>17 MR. CHAFFIN: Object to the form of the</p> <p>18 question because the exam isn't clear. He has looked at</p> <p>19 the photographs. Does that count as examination?</p> <p>20 MR. WILLS: Not in my book. I'm talking</p> <p>21 about physically himself eyes-on examined/functioned any</p> <p>22 armed service rifles.</p> <p>23 A. No, no. Remington did not see fit to offer</p> <p>24 them to me.</p> <p>25 Q. (By Mr. Wills) Have you asked to look at any of</p>
<p style="text-align: right;">Page 182</p> <p>1 A. Yes, I have.</p> <p>2 Q. You've reviewed the video supplied by</p> <p>3 Mr. Brees, correct?</p> <p>4 A. Yesterday.</p> <p>5 Q. And in both of those videos those gentlemen</p> <p>6 showed that their rifles would not discharge without a</p> <p>7 trigger pull at room temperature. Do you recall that?</p> <p>8 A. I don't believe they got it to discharge at</p> <p>9 room temperature.</p> <p>10 Q. Okay. But in Mr. Otto's case when he took it</p> <p>11 out to his garage, which he said was about 10 degrees</p> <p>12 Fahrenheit, and let it sit and Mr. Brees when he took it</p> <p>13 to his range where it was 30 degrees -- I don't believe</p> <p>14 they gave an exact number -- each of them demonstrated</p> <p>15 for the videos that their rifles would discharge upon</p> <p>16 release of the safety, right?</p> <p>17 A. Yes.</p> <p>18 MR. CHAFFIN: Intermittently, just to be</p> <p>19 accurate. Object to the form of the question.</p> <p>20 Q. (By Mr. Wills) In your opinion, from a</p> <p>21 scientific basis, why didn't Mr. Otto's rifle fire at</p> <p>22 room temperature without a trigger pull?</p> <p>23 A. The adhesive characteristics of the material</p> <p>24 was insufficient to cause a motion of the trigger to a</p> <p>25 position of precarious engagement. There is going to be</p>	<p style="text-align: right;">Page 184</p> <p>1 those?</p> <p>2 A. It would be interesting, but Mr. Chaffin has</p> <p>3 not apparently made it known to you.</p> <p>4 MR. CHAFFIN: We did ask you to bring the</p> <p>5 Brees firearm, but you lost it. Remember?</p> <p>6 Q. (By Mr. Wills) Have you asked to look at the</p> <p>7 Otto fire control?</p> <p>8 A. I have indicated that it would be interesting</p> <p>9 to know what those particular specimens -- how they</p> <p>10 would perform.</p> <p>11 Q. Have you asked to look at any of the trigger</p> <p>12 mechanisms from customer complaints where the</p> <p>13 temperatures were reported to be 50 degrees or above?</p> <p>14 A. Yeah. They're there in the grouping. If you</p> <p>15 will look at the materials that I offered you, they're</p> <p>16 separated into various temperature ranges and various</p> <p>17 types of response.</p> <p>18 Q. That's not my question. My question is: Have</p> <p>19 you asked to look at or examine any of the rifles or</p> <p>20 fire controls from those complaints?</p> <p>21 A. I have not personally requested that Remington</p> <p>22 do so. It's not my place to do that.</p> <p>23 Q. Well, out of scientific curiosity, have you</p> <p>24 asked to look at those to guns that may have -- are</p> <p>25 alleged to have discharged at 50 degrees or above?</p>

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1 A. No. I believe there to be --
2 MR. CHAFFIN: When you leave here today,
3 I'm going to file a motion for you to bring all those
4 fire controls to Mr. Butters that we're just talking
5 about now that you've asked the question because we know
6 you've got them.
7 Q. (By Mr. Wills) Have you done any of that work
8 to date?
9 A. No, I have not.
10 MR. CHAFFIN: We're definitely going to
11 file a motion for you to produce them now, just all the
12 ones that Mr. Watkins had in his possession.
13 MR. WILLS: Bob, you can make any
14 discovery request you want, and we'll respond
15 accordingly. I'm just taking your expert's deposition
16 about what he has and hasn't done.
17 MR. CHAFFIN: I get it. But you're asking
18 questions now that you know haven't happened, and you're
19 opening yourself up for a lot of trouble here for no
20 reason.
21 You know he's looked at the photographs
22 and he hasn't looked at the real guns. If you're going
23 to ask him that, then I've got to say, Okay, then you
24 opened the door for me to ask you to produce them for
25 him because now you're trying to cross-examine him and

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1 he hasn't seen them. And you've got them, so we're
2 going to have to look at them now. Just put them in a
3 big box and ship them to me. Try not to lose too many.
4 Q. (By Mr. Wills) Mr. Butters, on Exhibit 26 in
5 guns 5 through 10, both of those were tested at minus 20
6 and at 10, right? I mean, those guns --
7 A. 5 through -- yes. That is correct. Minus 20
8 and plus 10.
9 Q. Okay. Did any of those rifles fail or
10 experience a discharge without a trigger pull because of
11 Loctite?
12 A. Not to my observation.
13 Q. Did any of those rifles have excess Loctite
14 between the vicinity of the blocker screw head and the
15 trigger?
16 A. If they did, it was not reported by
17 Mr. Watkins.
18 Q. You've looked at the photographs of a number of
19 these particular rifles that are in the Remington
20 records, have you not?
21 A. Yeah. I've seen photographs of these, and they
22 apparently did not display an insecurity of engagement.
23 Q. Did they display excess Loctite between the
24 blocker screw and the trigger?
25 A. Yes. I believe every one of them did.

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1 Q. Why if they had excess Loctite between the
2 blocker screw and the trigger did rifles 5 through 10
3 not discharge during testing without a trigger pull?
4 A. I believe that the quantity and the state of
5 cure of that material is insufficient to cause an
6 adhesion between parts that would displace the trigger
7 with respect to the sear.
8 Q. Let's look at some of these. Let's pull up
9 Exhibit 24 and 24A.
10 (Exhibits 24, 24A and 24B marked)
11 MR. CHAFFIN: This is the Otto rifle.
12 Q. (By Mr. Wills) Mr. Butters, I'm going to show
13 you what we've marked as 24A and 24B. You've seen these
14 photos before, right?
15 A. Yes, I have.
16 Q. All right. And on the chart, Exhibit 26, I
17 believe the Otto rifle, the last four digits of the
18 serial number were 1613. Bob can correct me if I'm
19 wrong. But that would have been the fourth rifle in
20 this chart. And it passed at minus 20, failed at zero,
21 failed at minus 10. Okay?
22 A. At plus 10.
23 Q. Plus 10. You're right. Thank you. And if we
24 look at these photos, photo 24 shows the excess Loctite
25 in the vicinity of the blocker screw and the trigger,

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1 right?
2 A. That is correct.
3 Q. 24B shows that area of the trigger mechanism
4 with the safety disengaged now?
5 A. Doing what now?
6 MR. CHAFFIN: Safety disengaged.
7 A. Safety disengaged, right, and with the trigger
8 forward.
9 Q. (By Mr. Wills) What do you mean with the
10 trigger forward?
11 A. Well, the rear face of the flange on the
12 trigger, on the front face of the trigger, you will see
13 that the gap between the view hole in the side plate is
14 remarkably greater in the 24B photo than it is in the 24
15 photo.
16 In the 24 photo the rear surface of the
17 flange of the trigger, that front flange is cast onto
18 the trigger or manufactured onto the trigger, is
19 essentially aligned directly with the view hole. And
20 you will see in the 24B that particular surface is
21 significantly forward of that location indicating that
22 the trigger has been moved with respect to the sear.
23 Q. Well, that all depends on the angle of the
24 camera in these two pictures?
25 A. No.

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1 Q. Well, let's take a look.
2 A. No, it does not. This is a view that would not
3 distort the relationship.
4 MR. CHAFFIN: Is that significant? It's
5 4:00.
6 MR. WILLS: We're going to go till we get
7 done. As you know --
8 MR. CHAFFIN: I don't care. I don't care.
9 I'm just saying is it significant the position of the
10 trigger in these two pictures?
11 MR. WILLS: Well, given what he said, I
12 wanted to show --
13 MR. CHAFFIN: The trigger moved.
14 MR. WILLS: Well, that's what we're going
15 to show did not happen.
16 MR. CHAFFIN: What difference does it make
17 for what you're doing?
18 Q. (By Mr. Wills) Let's look at 24 on the Elmo,
19 please. Exhibit 24, the area of the flange you're
20 talking about is up in this area, is it not?
21 A. It is vertically downward from there.
22 Q. Right there?
23 A. There you go.
24 Q. And you're saying if you compare 24 to 24B,
25 there is more exposure in that area?

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1 A. Put it up against the flange or the trigger and
2 you will see that there is a significant gap. When you
3 compare them together, you will see that the trigger has
4 been displaced in a direction that will cause a
5 disengagement of the trigger from the sear.
6 Q. Well, let me show you something else,
7 Mr. Butters. Get these two together.
8 Do you see this right here?
9 A. Sure.
10 Q. What is that?
11 A. That is the flange that moves the blocker.
12 Q. Okay. That's not visible up here, is it?
13 A. That is correct. Because it has been moved out
14 of the way so that the blocker may move and enable the
15 motion of the trigger fully out of engagement.
16 Q. Let me show you this. Do you see this area
17 right here on 24B?
18 A. Yes.
19 Q. In this angle of the photograph you can see
20 that corner, if you will, of that part of the view hole,
21 right?
22 A. I don't know if that's the case. The lighting
23 has it more reflection from there than it does depicted
24 in the other one.
25 Q. Well, over here you can't even see that, can

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1 you?
2 MR. CHAFFIN: Let me ask you something.
3 A. Would you describe to me the attitude --
4 MR. CHAFFIN: What difference does this
5 make in your line of questioning?
6 MR. WILLS: It goes to his credibility.
7 A. And the intensity of the lighting. I think
8 you're trying to draw conclusions about things that do
9 not have any relevance.
10 Q. (By Mr. Wills) Do not exist?
11 A. I'm saying that there is more reflection from
12 this area. But is this due to a greater intensity of
13 light that is being shined on that?
14 MR. WILLS: Let's go to Exhibit 24C.
15 (Exhibit 24C marked)
16 Q. (By Mr. Wills) Bob is familiar with that one.
17 MR. CHAFFIN: This one I know. We call
18 this one Mr. Sticky.
19 Q. (By Mr. Wills) Mr. Butters, you've seen 24C
20 before, right?
21 A. Yes. I'm sure I have.
22 Q. Is that your printing at the top where it says
23 "Otto rifle"?
24 MR. CHAFFIN: That's my writing.
25 Q. (By Mr. Wills) You guys write alike. I'll

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1 represent to you that this is a photo taken of the Otto
2 rifle as showing the blocker screw being pulled away
3 from the trigger. Do you see that?
4 A. Yes.
5 Q. And do you see the, as Bob described, the
6 Mr. Sticky condition, all the tendrils of stuff going
7 from the trigger to the --
8 A. Well, there's a certain viscosity and adhesion
9 to both parts with voids in the intervening material.
10 Q. Do you know what temperature this was taken at?
11 A. No, I do not.
12 Q. In all of your functioning of the Blackwell
13 rifle, did you ever see any condition like this showing
14 tendrils of Loctite extending between the trigger and
15 the blocker screw?
16 A. No.
17 Q. Did you look for those?
18 A. Of course, we examined the blocker screw and
19 where it interfaced with the trigger. But at that time
20 we had no reason to suspect that there had been a
21 problem with partially uncured or completely uncured
22 Loctite that was creating any potential interference
23 with the proper function of the rifle.
24 Q. My question was: Did you ever see this --
25 observe this condition depicted in 24C to exist in

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1 the --
2 MR. CHAFFIN: I'm going to object to the
3 form of the question because you cannot observe this
4 condition with the naked eye. This is like 50 times
5 magnified with a slope motion.
6 MR. WILLS: You can make a form objection
7 if you want, but that's my question.
8 MR. CHAFFIN: Okay.
9 A. No. We did not identify upon visual
10 examination at the time of the examination of the rifle
11 on the 4th of March, 2014.
12 (Exhibit 24E marked)
13 Q. (By Mr. Wills) Let's go to Exhibit 24E, which
14 I'll represent to you is another photograph of the Otto
15 rifle taken by Remington. Do you recall having seen
16 this photo before?
17 A. Yes. I'm sure I have.
18 Q. And can you see on the face of the trigger here
19 the deposit or a deposit of Loctite where it would have
20 mated with the blocker screw?
21 A. Yes.
22 Q. And when we looked at that trigger after
23 removal in the Blackwell rifle, that deposit was no
24 longer there which you attribute to having been cleaned
25 off?

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1 A. It had been cleaned off.
2 Q. Now, let's go back and talk about the exam on
3 March 4th for a second.
4 A. The which?
5 Q. The March 4, 2014 exam --
6 A. Very well.
7 Q. -- at Anderson Labs with the Blackwell rifle.
8 A. Correct.
9 Q. You and Mr. Belk asked that the rifle trigger
10 mechanism be disassembled in order for you to conduct
11 SEM analysis on the trigger and sear of the rifle,
12 correct?
13 A. As did Dr. McLellan.
14 Q. Okay. And there was a discussion about that
15 before disassembly occurred of the trigger mechanism.
16 Do you recall that?
17 A. Yes. I think it was determined that, Jack, you
18 can take it apart.
19 Q. But do you recall any representative of
20 Remington indicating to the representative of the
21 plaintiffs that Remington's preference was that the
22 trigger mechanism not be disassembled but be left in the
23 condition in which it was observed at the time of the
24 inspection?
25 A. No. I do not recall any such discussion. I

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1 was not a party to that if one took place.
2 Q. You're not saying it didn't happen. You just
3 don't recall whether anyone --
4 A. I was not a party to it, and I was not aware of
5 it if it did take place.
6 Q. Have you looked at any of the videotapes of the
7 inspection on March 4th?
8 A. No. I don't recall ever having been offered
9 those.
10 Q. Okay. Would you have any basis to -- strike
11 that.
12 Do you have any personal knowledge that
13 would allow you to say or testify in this case that
14 Remington did not advise the people of the exam of their
15 preference that the trigger simply not be disassembled?
16 A. No. I don't have any personal knowledge of
17 that, no. If I were not party to any of the discussions
18 in regard to that, I could hardly have any knowledge of
19 it.
20 MR. WILLS: Let's look at 25A, please.
21 (Exhibit 25A marked)
22 Q. (By Mr. Wills) Mr. Butters, look at the
23 Remington testing data. I'm showing you Exhibit 25A.
24 Do you recognize that as a photograph of barreled
25 actions that Mr. Watkins and Remington tested at

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1 Remington?
2 A. No. I have not personally identified these,
3 but I would not be surprised were they not to be the
4 actions that were considered by Mr. Watkins.
5 Q. You understand that part of the test protocol
6 that he followed that we've been talking about here was
7 to subject the rifles, the barreled actions of various
8 rifles, to varying temperatures all the way down to 20
9 below, right?
10 A. Yeah. I understand that there were some that
11 were done that way. This is very probably a part of
12 that collection.
13 (Exhibit 35 marked)
14 Q. (By Mr. Wills) I'm showing you what we've
15 marked as Exhibit 35. I'm showing you what we've marked
16 as Exhibit 35. Are you familiar with that document?
17 A. Yes. I've seen this document.
18 Q. Is this something that you prepared?
19 A. No.
20 Q. Did you have any discussions with Mr. Chaffin
21 or anyone else concerning what to put in this document?
22 A. No. I did not direct the contents of this
23 document.
24 Q. Have you seen it before today?
25 A. Yes.

<p style="text-align: right;">Page 197</p> <p>1 Q. When did you first see it? 2 A. It was provided to me with the documents that 3 were sent to me to review with regard to this 4 deposition. 5 Q. Sent to you by Mr. Chaffin? 6 A. Yes. 7 (Exhibit 38 marked) 8 MR. WILLS: Exhibit 38, please. 9 Q. (By Mr. Wills) Mr. Butters, I'm showing you 10 what we've marked as Exhibit 38 and will represent to 11 you that this is a photograph that indicates on the 12 bottom rifle with a serial number with the last four 13 digits 8744 which, by the way, corresponds to rifle 14 No. 1 from Butters 26. Have you seen this before? 15 A. Yes. 16 Q. And do you see any Loctite on the face of the 17 trigger? 18 A. Yes. 19 Q. And based on this photograph, are you able to 20 describe or characterize the condition of any Loctite 21 depicted there? 22 A. Its consistency? Its adhesive characteristics? 23 What do you mean by that? 24 Q. Well, anything that you can tell from this 25 photograph about the characteristics from a scientific</p>	<p style="text-align: right;">Page 199</p> <p>1 Is it sticky? I can't tell from looking at the picture. 2 MR. WILLS: Let's go to Exhibit 52. 3 Actually, forget 52. We're going to go to 53. 4 (Exhibit 53 marked) 5 Q. (By Mr. Wills) Mr. Butters, I'm showing you 6 what we've marked as Exhibit 53. And I'll represent to 7 you that that is a picture of the trigger mechanism from 8 the rifle bearing serial No. S6575237, which would be 9 the second one listed on Mr. Watkins' chart. Have you 10 seen this before? 11 A. Yes. I'm sure I have. I've seen a number of 12 pictures that have this very similar appearance. As a 13 matter of fact, this has a quite similar appearance to 14 that material that's seen in Butters 38. 15 Q. And can you -- likewise, can you tell by 16 looking at this photograph whether the Loctite depicted 17 on the trigger is cured or uncured? 18 A. At some time it has been either liquid or 19 semiliquid because it is distributed in a way that would 20 indicate that it has been applied to the front face of 21 the trigger by contact in a wet condition, if you'll 22 have it, and is still currently adhering. The 23 consistency is impossible to determine by looking at a 24 static picture of that nature. 25 Q. You understand that this is one of the rifles,</p>
<p style="text-align: right;">Page 198</p> <p>1 basis or chemical basis of any Loctite depicted on that 2 trigger. 3 A. Well, I note that it apparently has been 4 transferred from the face of the blocker screw to the 5 trigger. And that at one point in time it was either 6 liquid or semiliquid. 7 Its consistency and adhesive 8 characteristics at the time this photograph was taken 9 are impossible to determine from the photograph itself. 10 Q. And do you observe any liquid Loctite in this 11 photograph? 12 A. I can't tell whether it's liquid or hardened. 13 I can't tell whether it's semiliquid. I can't tell 14 whether it's tacky. I can't tell whether it's hard. 15 All I can tell you is that there is a deposit of Loctite 16 that may or may not be cured to some degree and that its 17 origin was from -- it resulted from an improper 18 application of Loctite to the blocker screw assembly. 19 Q. Can you tell from looking at this photo or 20 based upon any other information you have about this 21 rifle whether the Loctite depicted on the trigger in 22 this photograph was cured or uncured? 23 A. I have no way of doing it just from this 24 particular. I would have to make some determination as 25 to the consistency and adhesive characteristics of that.</p>	<p style="text-align: right;">Page 200</p> <p>1 No. 2, that failed the testing conducted by Mr. Watkins? 2 A. If you so represent. I have no numbers on that 3 that would enable me to determine whether that's factual 4 or not. 5 Q. Okay. 6 MR. WILLS: Let's go to Exhibit 65. 7 (Exhibit 65 marked) 8 Q. (By Mr. Wills) Mr. Butters, I'm showing you 9 what we've marked as Exhibit 65. I'll represent to you 10 that it's my understanding this is a photograph of the 11 trigger mechanism on the rifle with serial No. G7145306. 12 I don't expect you to recall it by that; but I'll 13 represent to you that according to the chart, this rifle 14 was tested at 20 below and at 10 and did not fail. It 15 passed. 16 As an expert, what observations do you 17 have about the condition of the Loctite shown in this 18 photograph? 19 A. That it is excessive and it is in an improper 20 place. It does not correspond to the design 21 specifications that were in place for the pre-production 22 rifles and that particular condition was not adequately 23 addressed in the production standards and 24 specifications. It just shows that there -- from my 25 observation that there is a notable excess of what</p>

<p style="text-align: right;">Page 201</p> <p>1 appears to be Loctite material. 2 Q. Are you aware that in the manufacturing process 3 on these rifles after the Loctite has been put in place 4 and the rifle settings have been made, that at some 5 point there is a graphite material that's put in the 6 trigger mechanism by Remington? 7 A. Yes. 8 Q. Do you see any evidence of such graphite 9 trigger mechanism in Exhibit 65? 10 A. Well, I've seen reports that it is claimed that 11 that is what we see adhering to the material. 12 Q. Have you seen -- go ahead. 13 A. Now, I cannot from observation of this say that 14 it is or it is not. I would say it probably has got 15 some graphite in it. But what its effect is I cannot 16 tell from the examination of this particular photograph. 17 Q. Well, do you have an opinion as to what effect 18 graphite has on excessive Loctite in the area of the 19 blocker screw and trigger? 20 A. No, I don't. I really don't know what effect 21 that might have. It is claimed by Watkins that the 22 presence of graphite causes the complete cure of the 23 Loctite material. But I have seen no support other than 24 his reportage -- that is, his opinion -- that it does 25 so. But I don't know whether it does or it doesn't.</p>	<p style="text-align: right;">Page 203</p> <p>1 semiliquid and has a gummy adhesive characteristic. 2 Q. Did you observe any such tendrils in the 3 Blackwell rifle? 4 A. No, I did not. Although I did not specifically 5 inspect for that since we were not anticipating that 6 that caused any particular trouble. Remington had not 7 seen fit to inform us that there was any suspicion on 8 their part that uncured Loctite might have been 9 influential in the causation of any of these discharges. 10 MR. WILLS: Strike as nonresponsive. 11 Let's go to Exhibit 95, please. 12 (Exhibit 95 marked) 13 Q. (By Mr. Wills) While he's getting that for you, 14 Mr. Butters, just as kind of part of my housekeeping 15 stuff here, I was provided some of your records before 16 the deposition. And these appear to me to be three 17 invoices that I have been provided previously about your 18 billings to Mr. Gary's office and I believe later to 19 Mr. Chaffin's office for your work in the McNeil case, 20 right? 21 A. Yeah. That's correct. They provide a clear 22 picture in conjunction with my time sheets as to what 23 was done. 24 Q. Okay. And we'll get your time sheets copied. 25 We marked them earlier. But if we add all that up and</p>
<p style="text-align: right;">Page 202</p> <p>1 Q. And do you have any scientific basis to 2 disagree with his reportage and his conclusion? 3 A. I have no scientific evidence to agree or 4 disagree with him. I don't know whether he's making a 5 correct statement or not. 6 MR. WILLS: Let's go to Exhibit 67. 7 (Exhibit 67 marked) 8 Q. (By Mr. Wills) Again, Mr. Butters, I don't 9 expect you to recognize these by serial number. But 10 I'll represent to you it's my understanding this is from 11 a rifle with serial No. G6855483 which on the chart is 12 rifle No. 3. 13 A. No. 2? 14 Q. 3. 15 A. 3. 16 Q. So it passed at 20 below and at zero but failed 17 at minus 10. Do you see that? 18 A. Yes. That is true, rifle No. 3. 19 Q. And this also shows, as Mr. Chaffin said, this 20 shows Mr. Sticky here between the trigger and the 21 blocker screw. 22 A. Well, it shows tendrils of what would appear to 23 be the Loctite material adhering to both the trigger 24 face and the face of the blocker screw which would make 25 me strongly suspect that that material is still</p>	<p style="text-align: right;">Page 204</p> <p>1 all the hours, that will show what your charges for your 2 consulting engineering time have been to date, right? 3 A. Yeah. You can check my arithmetic. 4 Q. All right. 5 MR. WILLS: Let's go to Exhibit 95D. 6 (Exhibit 95D marked) 7 Q. (By Mr. Wills) Mr. Butters, showing you what 8 we've marked as Exhibit 95. Is that a e-mail sent from 9 you to Cheryl Curlett at Mr. Gary's office? 10 A. So? 11 Q. I just asked you to identify it. Is that a 12 copy of an e-mail you sent? 13 A. Yeah, yeah. Sure is. 14 Q. That's all I was waiting for. 15 A. I didn't realize what you were doing. I 16 thought you were waiting to ask me a question. 17 Q. I am, but I wanted to get you to confirm what 18 it was. 19 A. Well, I didn't catch it. Go ahead. 20 Q. All right. This is sent by you the day after 21 the March 4, 2014 exam, right? 22 A. Right. 23 Q. And you indicate that "Please advise Willie 24 that he might find useful in any discussions with Dale 25 an internal Remington memorandum from about 1964 (?) by</p>

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1 Mike Walker that warned against the use of metal
2 injected molded or sintered metallic processes."
3 We've already established from your
4 earlier testimony that you don't believe that the
5 manufacturing process had anything to do with the Thar
6 incident, correct?
7 A. That's correct.
8 Q. And also true about the Edge incident as well?
9 A. That's correct.
10 Q. Okay.
11 A. At that point in time I had no idea what the
12 potential condition of those parts might be.
13 Q. But subsequent to this you got the results of
14 the SEM analysis and concluded ...
15 A. Yeah. And I had not had an opportunity to look
16 at the optical microscope review and see the parts
17 myself. And there was no problem with them as far as a
18 breakup or premature wear condition.
19 Q. Look at 95F, please.
20 (Exhibit 95F marked)
21 Q. (By Mr. Wills) Mr. Butters, I'm showing you
22 what we've marked as Exhibit 95F. Earlier we talked
23 about Mr. Gary's office sending you Remington's
24 interrogatory about expert opinions. We've marked that
25 interrogatory and your response letter. This is just

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1 the e-mail that Mr. Gary's office sent you regarding
2 that question, right?
3 A. Yeah. That I was supposed to respond to, which
4 I did.
5 Q. Okay. Turn to 95I, please.
6 (Exhibit 95I marked)
7 Q. (By Mr. Wills) Mr. Butters, Exhibit 95I was
8 among the materials provided by Mr. Chaffin before your
9 deposition today. If we go about two-thirds of the way
10 down, there's an e-mail that Mr. Chaffin apparently sent
11 to someone in Mr. Gary's office on May 29th, 2014. Do
12 you see that?
13 A. Yes.
14 Q. It indicates that "I have spoken with Tom.
15 When we spoke, I was under the impression this was a
16 Walker fire control model 700 but, in fact, it is the
17 newer XP version of the fire control system." Skip the
18 next sentence. Well, no.
19 "I do not have experience with this newer
20 version of the fire control. So most of what we've
21 discussed would not apply to this incident. Tom advises
22 that everything concerning the fire control system on
23 this rifle was within factory specs and with no visible
24 defects."
25 I take it that's what you had related

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1 previously to Mr. Chaffin?
2 A. Yes. And that's consistent with the letter
3 that I provided to Mr. Willie Gary's office with regard
4 to response to your interrogatory demand for
5 information.
6 Q. Okay.
7 I am showing you what we marked as 95J.
8 (Exhibit 95J marked)
9 Q. (By Mr. Wills) This appears to be an e-mail
10 from Mr. Chaffin to you of May 30, 2014 asking you to
11 look at something on YouTube, right?
12 A. Yeah. This was the --
13 Q. Otto rifle?
14 A. Yeah. It was one of those. I don't know if
15 Otto, Brees or Young. I'm not sure which one it was.
16 It was the one that the guy showed that it would
17 discharge without the trigger pull on safety release.
18 Q. Okay. And that was on May 30. I want to show
19 you Exhibit 95K.
20 (Exhibit 95K marked)
21 Q. (By Mr. Wills) This is an e-mail response from
22 you to Mr. Chaffin on the next day, May 31, correct?
23 A. Yeah.
24 Q. And there you tell him that it's been known for
25 some time that the X-Mark Pro trigger is not bulletproof

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1 and Remington was full aware of it.
2 What did you mean when you said the
3 trigger is not bulletproof?
4 A. That it's not absolutely reliable under all
5 circumstances and that there are conditions under which
6 it may fail to operate reliably and thereby create a
7 dangerous situation.
8 Q. Okay. And then you state, "This guy gives us
9 no information about his maintenance, cleaning and
10 lubrication procedures and no data on the condition or
11 configuration of the sear/trigger release surfaces. His
12 observations about intermittent FSR's in cold conditions
13 are well documented but not particularly helpful in
14 determining their cause which may be a combination of
15 complex interactions."
16 What do you mean by that?
17 A. Exactly what it says.
18 Q. Well, when you say "this guy," who are you
19 referring to?
20 A. That is the individual who had posted the Otto,
21 I guess is the man he is, or Brees or Young, whoever
22 posted on YouTube a video for all and sundry to see that
23 he was getting a discharge in the absence of a trigger
24 pull --
25 Q. Okay.

<p style="text-align: right;">Page 209</p> <p>1 A. -- when he demonstrated his X-Mark Pro model 2 700 rifle. 3 Q. Why would information about his maintenance, 4 cleaning and lubrication procedures be potentially 5 significant to you? 6 A. Well, suppose he'd socked it full of WD-40 and, 7 as you well know or should know, WD-40 ages so as to 8 create adhesive conditions within the fire control that 9 will very likely cause malfunctions. 10 There's no information as to what he did 11 with regard to making sure that there were no solvents 12 or cleaning materials that got into sensitive areas of 13 the fire control. And there's no information that he 14 has or gives us that will tell us what the sear/trigger 15 release area is like, which could all affect whether or 16 not it would fire on safety release. 17 Q. Regardless of the presence of any excess 18 Loctite? 19 A. That's absolutely true. But if there's a bunch 20 of -- for any reason, if the internal parts are gummed 21 up so that they don't cooperate together properly, then 22 there's a very good probability that you're going to 23 have a malfunction. 24 Q. Okay. And that's why it's important in 25 reaching a determination on any of these rifles to</p>	<p style="text-align: right;">Page 211</p> <p>1 could both get together with me in Houston the week of 2 December 15th. If not, when?" 3 Do you see that? 4 A. Yes, sir. 5 Q. Did you ever get together with Mr. Powell? 6 A. Yeah. I called Chuck. 7 Q. But did you ever meet with Mr. Chaffin with 8 Mr. Powell? 9 A. No. 10 Q. About this case? 11 A. No. 12 Q. Or about any X-Mark Pro Loctite issues? 13 A. No. 14 Q. Have you ever spoken to Mr. Powell about any 15 X-Mark Pro Loctite issues? 16 A. No. Although to dispel any question as to 17 whether I know what some of his opinions and 18 observations are, I was made aware and sent copies of 19 the Chuck Powell evaluation of the Remington factory 20 procedures that were in place for the Pollard matter. 21 Q. Those are the procedures instituted after the 22 recall in the manufacture of X-Mark Pro trigger 23 mechanisms made after that time? 24 A. That's right, definitely. 25 Q. And he essentially gave those procedures a</p>
<p style="text-align: right;">Page 210</p> <p>1 actually examine the rifles for all of these various 2 conditions to see which, if any, of the conditions may 3 be in play on a particular rifle, right? 4 A. Yes, sir. That is true if that happens to be 5 available to you and if the circumstances of examination 6 enable that. 7 Q. Okay. Because we know that there are these 8 various conditions of maintenance, malformed parts, worn 9 parts, all those kind of things may in some instances 10 result in discharges without trigger pulls, right? 11 A. Yes, sir. 12 Q. And that's why before you can attribute an 13 inadvertent discharge claim to excess Loctite, you need 14 to or someone needs to look at the trigger mechanism to 15 determine whether that is what is actually causing it. 16 True? 17 A. Like we did on the 4th of March of 2014. 18 Q. Okay. Thank you. 19 MR. WILLS: Now, Exhibit 95M, please. 20 (Exhibit 95M marked) 21 Q. (By Mr. Wills) Mr. Butters, Exhibit 95M is an 22 e-mail exchange between you and Mr. Chaffin November 18, 23 2014. I'm just referring to the bottom part there where 24 Bob was sending you an e-mail that says, "Would you mind 25 calling Chuck Powell and seeing if there's a date you</p>	<p style="text-align: right;">Page 212</p> <p>1 clean bill of health? 2 A. Yes. His report said that it would appear that 3 the activities that Remington had engaged in would 4 result in a positive result. 5 Q. Have you ever had any conversations with 6 Mr. Powell about X-Mark Pro rifles made before the 7 recall and the potential for excess Loctite to cause 8 accidental discharge? 9 A. No. I don't believe so. 10 MR. WILLS: Exhibit 95N, please. 11 (Exhibit 95N marked) 12 Q. (By Mr. Wills) This is a series of e-mail 13 exchanges between you and Mr. Chaffin. On the second 14 page, he is referring there to a second XMP case that he 15 was telling you about. Is it your understanding that's 16 the Edge matter, Edge case? Do you see it's the second 17 page there? 18 A. No. I don't necessarily identify that as the 19 Edge matter. 20 Q. Well, let's go back to the first page, right in 21 the middle. Mr. Chaffin also indicates to you at the 22 end of that e-mail, "I also have a lead on a Remington 23 770 case. What do you mean about the 770? Have you 24 examined any 770s for Mr. Chaffin?" 25 A. Oh, that's what Chaffin wrote. No wonder I</p>

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1 didn't know about it.
2 Q. Well, have you examined a 770?
3 A. No. I have not had any further data nor inputs
4 on any 770 case.
5 Q. Okay. Now, to my recollection, as I understand
6 it, you met with Mr. Chaffin in preparation for today's
7 deposition and tomorrow's deposition in Edge here
8 yesterday in Houston, right?
9 A. That is correct.
10 Q. Who else attended that meeting, if anybody?
11 A. No one. No one.
12 Q. Was that here at his office?
13 A. That was in his office.
14 Q. How long did it last?
15 A. Oh, six, seven hours at least.
16 Q. Okay. And did you go over many of the
17 materials that we've already reviewed here today?
18 A. Yes. He has the photographs and everything
19 very conveniently stored on his computer. And we used
20 that to review many of the photos that you've shown me
21 today that I had seen before but they were interesting
22 to check over.
23 Q. Okay. Let's look at 95S, please, and 95T.
24 (Exhibits 95S and 95T marked)
25 Q. (By Mr. Wills) Among the materials that I think

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1 I saw in your file and that Mr. Chaffin provided us
2 before your deposition were these two exhibits, 95S and
3 95T. And I think earlier you referred to some breakdown
4 or categorization of customer complaint materials on
5 X-Mark Pros that have been provided to you -- compiled
6 and provided to you by Mr. Chaffin, right?
7 A. Yeah. This is a spreadsheet of those.
8 Q. And this is what those are, right?
9 A. Yes.
10 Q. And these have various comments concerning the
11 conditions and the allegations involved in those
12 occurrences, right?
13 A. Yes. And these appear to have been derived
14 from the arms service reports that are associated with
15 each of these.
16 Q. Did you have anything to do with preparing
17 these charts?
18 A. No, I did not. But I'll have to say it's a
19 rather neat data presentation.
20 Q. Who did prepare them?
21 A. I don't know. But it came out of Mr. Chaffin's
22 office.
23 Q. To you?
24 A. Yes.
25 Q. All right. And how are you relying on these

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1 two documents for any opinions you have in this case?
2 A. Well, they are a convenient compilation of and
3 distribution of complaints regarding the rifles that are
4 fitted with the XMP trigger. It also has a date of the
5 incident and in general the conditions under which the
6 incident took place.
7 There are check marks as to whether there
8 is data and/or rifle available to either Remington or
9 someone else. The ones that are checked I don't have
10 where they're marked "have." I'm not sure what that is
11 related to.
12 Q. Okay.
13 A. But this has got a lot of information on there
14 that tabulates.
15 MR. WILLS: Bob, I have about 15 more
16 minutes if you want to take a break now or force
17 through. It's up to you.
18 MR. CHAFFIN: I'll take a little break. I
19 know I'm not testifying but if you want me to, I can
20 tell you what the sheet says, too.
21 Each of the rifles on here was pulled off
22 of the list that Mr. Watkins requested that he be
23 supplied the test with. And you can see that all the
24 rifles he requested were not available which indicated
25 they were not product service rifles on a number of

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1 failures. And then we went in and matched them all up
2 with their photographs and their PSL reports by serial
3 number. All of it's not here. Part of it's on that
4 disk.
5 MR. WILLS: Okay.
6 MR. CHAFFIN: But if you went through
7 there, you would see that each of the rifles that failed
8 has consistently excess sealant on there, which we did
9 review together, too.
10 This is just here, this one. My little
11 brother's good with Excel spreadsheets, and he's
12 retired. So he inputted all the data and you can sort
13 by date, by weather or by event. So we sorted this one
14 by date which allows you to conveniently see all of the
15 warm-weather accidents and all of the older complaints,
16 et cetera.
17 MR. WILLS: Okay. Let's take a quick
18 break.
19 THE VIDEOGRAPHER: Off the record at 4:46.
20 (Recess taken)
21 THE VIDEOGRAPHER: Beginning of media 4.
22 We're back on the record, 4:54.
23 Q. (By Mr. Wills) Mr. Butters, there's been some
24 discussion about Remington's recall efforts. Do you
25 hold yourself out as an expert in recalls, how to

<p style="text-align: right;">Page 217</p> <p>1 conduct recalls? 2 A. In what sense? 3 Q. In how to go about adequately conducting a 4 recall program for a consumer product. 5 A. I'm not trained in such a thing. But there are 6 certain elements that I would think are appropriate; and 7 that is that there be an identification of whatever the 8 manufacturer, let's say, or marketer of a particular 9 product had that he considers to be of critical 10 importance to his market and that he take those steps 11 that are appropriate to inform that market. 12 If it is a specific one, that he addresses 13 them through those publications and devices that will 14 make them aware of a potential problem, what the 15 manufacturer wishes to do to rectify that particular 16 problem and make them safe. And then how they go about 17 complying with his program. 18 And beyond that I would say that how that 19 is done would be governed largely by the product and the 20 market that is being addressed and the severity of any 21 failure to comply with the proffered recall. 22 Q. Have you authored in any articles or books 23 since May of 2010? And I'm asking that date because I 24 think that may have been the last time I examined you. 25 It was in the Williams trial.</p>	<p style="text-align: right;">Page 219</p> <p>1 me -- every now and then he would send me a draft and 2 say, What do you think? 3 And I'd say, Well, yeah. Good for this, 4 bad for that. I don't think I'd say that, or, What kind 5 of support do you have? 6 Q. Okay. Well, do you have -- 7 A. Whatever. 8 Q. Do you have any of his early drafts still? 9 A. No. I don't have those. I do have a copy of 10 his book. He did send me -- I wrote the foreword to his 11 book. 12 Q. I saw that. 13 A. And I have a high regard for Jack as a person 14 and as a gunsmith and artisan and individual whom I 15 believe to be singularly knowledgeable about firearms, 16 firearm mechanisms and their use and operation. He's a 17 very clever fellow. 18 Q. Either electronically or in paper form do you 19 have any of the suggestions or revisions that you made 20 to any of his drafts? 21 A. No. I told you I didn't. 22 Q. No. I didn't ask you about that. I asked 23 about what he sent you. Now I'm asking about what you 24 sent him. 25 A. No. I don't have any of that. I don't have</p>
<p style="text-align: right;">Page 218</p> <p>1 A. Yeah. I believe that if you look at my most 2 recent publications, Gun Digest had a featured article 3 that I wrote -- it's not in there unless it's attached 4 to my resume. But in a recent Gun Digest annual I had a 5 feature article that -- 6 Q. About what? 7 A. It addressed the accuracy and the utility of 8 military bolt action rifles from roughly the 1890s 9 through the 1950s. 10 Q. Have anything to do with this case? 11 A. No. 12 Q. And that would be in a recent, what, monthly 13 publication? 14 A. No, no. It's an annual. 15 Q. Oh, it's in their book? 16 A. It's in the book. And it's called an accuracy 17 comparison of military bolt action rifles. 18 Q. All right. Well, I'll look for that. 19 A. You may enjoy reading it. 20 Q. I might. You're right. 21 A. I hope you do. I enjoyed writing it. 22 Q. Speaking of publications, Mr. Belk sent me a 23 copy of his book. Did you review that at all when he 24 was drafting it? 25 A. Yes, I did. I was flattered that he would send</p>	<p style="text-align: right;">Page 220</p> <p>1 any of that. 2 Q. That's just stuff -- 3 A. I was flattered that he asked me to write a 4 foreword for his book, and I was glad to do so. 5 Q. Have you given any depositions or testified at 6 trial in any firearms-related product liability cases 7 since May of 2010 in the Williams case? 8 A. Yes. 9 Q. 2007. Sorry. 10 A. There was a matter that was some eight or nine 11 years old the last I had had anything to do with it. 12 And I think that the event took place in early 2000 -- 13 2006 perhaps. It was a Bryco .380 pistol that was 14 dropped some 6 inches onto a glass tabletop, discharged 15 and killed this young boy in Atlanta, Georgia. 16 Q. Did you give a deposition or testify at trial? 17 A. I testified at the time of trial. I was down 18 in Atlanta for a solid week in trial. 19 Q. When was that? 20 A. Late November of 2014. 21 Q. Have you testified -- was that a criminal 22 trial? 23 A. No. 24 Q. Civil trial? 25 A. Civil trial.</p>

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1 Q. Have you testified by deposition or trial in
2 any other cases besides that Bryco case within the last
3 five years, any firearms-related case?
4 A. Not to my recollection.
5 Q. Are you working on any --
6 A. It would be listed in the materials that I gave
7 you if it were, but I don't remember it. I have a very
8 short list of prior deposition and trial appearances
9 over the last five or six years.
10 Q. Okay. Do you have any other Remington matters
11 or cases that you're working on as a consultant for
12 attorneys besides Thar, Edge and Pollard, if you will?
13 Do you have any other Remington matters?
14 A. I thought Pollard had gone south. I pretty
15 much filed that particular case. If it comes to light
16 again, that will be it. But those are the only ones
17 that I've been dealing with.
18 Q. You have no other personal injury Remington
19 cases besides the McNeil case, the Thar case and the
20 Edge case?
21 A. And no property loss cases either, nothing.
22 Q. To your knowledge, is any type of Loctite used
23 in trigger mechanisms on firearms of any other
24 manufacturers, either now or historically?
25 A. I have no knowledge one way or the other. I'm

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1 sure that it has periodically of some type been used,
2 either by gunsmiths or by manufacturers. But I don't
3 have any data that would identify it.
4 Q. If someone were to come to you and say, I've
5 got a Remington model 700 with an X-Mark Pro trigger and
6 I just experienced an accidental discharge and I don't
7 think I pulled the trigger, can you tell me what
8 happened? If somebody came to you with that request,
9 would you ask them, Well, first of all, let me look at
10 the product, look at the rifle?
11 A. Yeah. First of all, I would caution him that
12 there would necessarily have to be an in-depth review of
13 the condition of the rifle and its history and its
14 period of production.
15 Q. Okay. And that would be so that that kind of
16 review would include an examination by you of the
17 condition of the rifle?
18 A. Yeah. And potentially by others as well who
19 had specific skills or equipment that I do not have.
20 Q. And would it be fair to say you wouldn't offer
21 that person an opinion about the specifics of what had
22 happened in their particular instance without you or
23 somebody else who's qualified examining the rifle?
24 A. I would say do not use it until you determine
25 the particulars with regard to your rifle because if

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1 things happen badly, you or someone else could get dead.
2 Q. This condition of excess Loctite in a trigger
3 mechanism of a Remington X-Mark Pro fire control, does
4 any such excess Loctite prevent a user from putting the
5 safety in the safe position?
6 A. No.
7 Q. The X-Mark Pro trigger does not have a bolt
8 lock mechanism, does it?
9 A. No. It has a bolt-lift-on-safe feature.
10 Q. So if a user of that rifle can load it, it can
11 unload it with the safety staying in the safe position?
12 A. That is correct.
13 Q. And the only time a user would need to
14 disengage the safety on a Remington 700 with an X-Mark
15 Pro trigger is when he is ready to fire the rifle?
16 A. That is correct.
17 (Exhibit 1D marked)
18 Q. (By Mr. Wills) I'm going to show you what we've
19 marked as Exhibit 1D, ask you if you recognize that?
20 A. Yes. That's my resume.
21 Q. Okay. And that's what was provided to us in
22 this case.
23 A. And there are attachments.
24 Q. Right. But that's what was provided to me in
25 this case. Is that a copy of your most recent resume,

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1 as far as you know?
2 A. Yes. This is the most recent resume, but this
3 is not the most recent list of cases that were testified
4 at deposition or trial. This is only listed in between
5 April 2010 and April 2014. We are now much further on
6 than that.
7 Q. And since April 2014 to May of 2015, the
8 present, you would have to add that Bryco case, right?
9 A. Yes.
10 Q. Any others?
11 A. That's the only one I recall.
12 Q. Okay. Thank you.
13 A. Here we are. Here is my publications list, and
14 you will find a reference on the back page of that
15 should you desire to get a copy of that.
16 Q. "Military Rifle Accuracy, a Comparison," 2011
17 Gun Digest, 65th edition?
18 A. That's correct.
19 Q. Good deal. Have you, sir, formed any other
20 opinions as an expert in the McNeil case other than what
21 we have already discussed today?
22 A. No, sir. I think we've touched on my opinions.
23 Q. And as we mentioned earlier, is there any work
24 that you have planned or have asked to do in the future
25 on this case?

1 A. No. Although if Mr. Chaffin offers me an
2 extension of my commission in this matter or in Edge, I
3 will consider it.

4 Q. I'm sure he might, knowing Bob.

5 Mr. Butters, let's call it a day on the
6 McNeil case. I'll see you and Mr. Chaffin in the
7 morning on the Edge case.

8 THE VIDEOGRAPHER: Off the record at 5:11.
9 (Proceedings concluded at 5:11 p.m.)
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1 I, JOHN T. BUTTERS, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.
4
5
6
7

8 _____
9 JOHN T. BUTTERS

10 THE STATE OF _____)
11 COUNTY OF _____)
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Before me, _____, on this day
personally appeared JOHN T. BUTTERS, known to me or
proved to me on the oath of _____ or through
_____ (description of identity card
or other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged
to me that he/she executed the same for the purpose and
consideration therein expressed.

Given under my hand and seal of office on this ____
day of _____, _____.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

My Commission Expires: _____

1 CHANGES AND SIGNATURE
2 PAGE LINE CHANGE REASON
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1 IN THE GENERAL COURT OF JUSTICE
2 SUPERIOR COURT DIVISION

3 CARLETTA MCNEIL,) STATE OF NORTH CAROLINA
4 ADMINISTRATOR for and on)
5 behalf of THE ESTATE OF) COUNTY OF MECKLENBURG
6 JASMINE THAR (decedent),)
7 JAHMESH MCMILLIAN and,)
8 TREKA MCMILLIAN,)
9 Individually,)

10)
11 Plaintiffs,)

12 vs.) CASE NO. 13-CvS-21261
13)

14 REMINGTON ARMS COMPANY,)
15 LLC,)

16)
17 Defendant.)

18 REPORTER'S CERTIFICATE
19 ORAL VIDEOTAPED DEPOSITION OF TOM T. BUTTERS
20 May 14, 2015
21
22
23
24
25

I, Melinda Barre, Certified Shorthand Reporter in
and for the State of Texas, hereby certify to the
following:

That the witness, TOM T. BUTTERS, was duly sworn and
that the transcript of the deposition is a true record
of the testimony given by the witness;

That the deposition transcript was duly submitted on
_____ to the witness or to the attorney for
the witness for examination, signature, and return to me
by _____.

That pursuant to information given to the deposition

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1 officer at the time said testimony was taken, the
2 following includes all parties of record and the amount
3 of time used by each party at the time of the
4 deposition:

5 Dale G. Wills (5h47m)
6 Attorney for Defendant

7 That a copy of this certificate was served on all
8 parties shown herein on _____ and filed
9 with the Clerk.

10 I further certify that I am neither counsel for,
11 related to, nor employed by any of the parties in the
12 action in which this proceeding was taken, and further
13 that I am not financially or otherwise interested in the
14 outcome of this action.

15 Further certification requirements pursuant to
16 Rule 203 of the Texas Code of Civil Procedure will be
17 complied with after they have occurred.

18 Certified to by me on this 28th day of May, 2015.

19
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21
22
23 _____
24 Melinda Barre
25 Texas CSR 2192
Expiration: 12/31/16

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1 FURTHER CERTIFICATION UNDER TRCP RULE 203

2
3 The original deposition was/was not returned to the
4 deposition officer on _____.

5 If returned, the attached Changes and Signature
6 page(s) contain(s) any changes and the reasons therefor.

7 If returned, the original deposition was delivered
8 to Dale G. Wills, Custodial Attorney.

9 \$_____ is the deposition officer's charges to the
10 Defendant for preparing the original deposition and any
11 copies of exhibits;

12 The deposition was delivered in accordance with Rule
13 203.3, and a copy of this certificate, served on all
14 parties shown herein, was filed with the Clerk.

15 Certified to by me on this _____ day of

16 _____, _____.

17
18
19
20 _____
21 Melinda Barre
22 Texas CSR 2192
23 Expiration: 12/31/16
24
25

58 (Pages 229 to 230)