

Fatal shooting: Father wants Remington lawsuit documents unsealed in hopes of rifle recall

By PERRY BACKUS Ravalli Republic | Posted: Friday, October 28, 2011 6:30 am

In a storage unit somewhere in Colorado, Richard Barber believes the public may finally find the truth about one of America's favorite sporting rifles. Last week, the Belgrade man asked a federal court in Butte to unseal boxes of documents stored there from a decades-old civil case that Barber hopes could eventually lead to the recall of an estimated 5 million Remington Model 700 rifles.

In 1988, 14-year-old Brent Aleksich of Butte was severely injured when a Remington Model 700 rifle discharged after his 13-year-old brother released the gun's safety without touching the trigger.

The boy was shot through both legs.

In 1995, Remington settled a civil case with the Aleksich family for an undisclosed amount. In 2001, the court sealed the case file from public review at the request of Remington.

Barber - the father of a 9-year-old boy killed by an inadvertent discharge of the same model of rifle - believes documents from the Aleksich case hold the key to proof that Remington knew its product was unsafe as far back as the 1940s.

Last Friday, through a public interest law firm called Public Justice, Barber filed a federal court action to intervene in the Aleksich case with the expressed purpose of opening the court file to the public.

The lawsuit claims the Aleksich court records were sealed at Remington's insistence in order to hide the company's misconduct from the public.

Barber's son, Gus, was killed in 2000 by an inadvertent discharge from a Remington Model 700 while on the family's annual hunting trip.

The rifle fired when the boy's mother, Barbara, pushed the safety switch to the "safe" position. The bullet went through a horse trailer and struck the boy on the other side. She swears her finger was nowhere near the trigger.

Shortly afterward, Barber learned there was a long string of similar incidents with the same model of rifle that had left people dead or seriously injured.

Over the course of the past 11 years, Barber has dedicated his life to becoming an expert on the Walker fire control system that he's now convinced enables the Remington's 700-series center fire bolt-action rifle to discharge without the trigger being pulled.

Barber's efforts to educate the public about the rifle's safety issues were documented in 2010 by CNBC's "Remington Under Fire" documentary that followed a 10-month-long investigation by that news organization.

Remington has maintained that the fire control system is safe and that any accidents were due to operator error or a failure to maintain the rifle.

Remington attorney Dale Wills of Chicago said the company received Barber's motion Tuesday and officials were in the process of reviewing it. The company will offer its response to the motion in the time allocated by the court, which Wills estimated to be two weeks.

In his declaration, Barber said he learned about the Aleksich case from one of his employees shortly after his son's death.

After news accounts of the accident circulated, Barber was sent a 1994 Business Week article entitled "Remington Faces a Misfiring Squad" that documented 12 trials and 18 settlements in cases involving malfunctions of the Model 700 through 1981.

At the time of his son's death, Barber's declaration said more than 80 lawsuits had been filed against the company alleging the rifles with the Walker fire control system fired without the trigger being pulled.

Since the settlement of the Aleksich case, Barber said Remington has settled almost every claim brought against the company involving the Model 700. In those cases, the company routinely requires a broad protective order before it will produce documents in litigation.

When the company settles a case, Barber's affidavit said it does so "on the condition that the court seal all evidence to prevent the public from learning what Remington knew, when they knew it, and what they did or did not do regarding the unsafe nature of the Walker fire control."

In his affidavit, Barber said his focus has always been on disseminating the information to the public about the dangers of the Walker fire control mechanism. He reached out to national and regional news organizations to make that happen.

Barber's declaration said he also leveraged his family's lawsuit against the company to force it to implement a program to modify Model 700s produced before 1982, which forced gun handlers to release the safety in order to unload the rifle.

As a result, in 2002, the company offered to remove the bolt lock feature for a small fee, which Barber maintains has helped prevent future accidents.

Barber's declaration said his other goal was to convince the company to discontinue use of the Walker fire control system.

In 2001 and 2002, Barber's declaration said he met with Remington's CEO and their lead counsel on at least four occasions regarding the safety modification program and the development of a new fire control.

"During one of our meetings, (Remington CEO) Tommy Millner assured me that once the new fire control went into production, Remington would discontinue use of the Walker fire control," Barber's declaration stated.

The agreement was finalized with a handshake in 2002.

Over the course of the next three years, Barber said he provided feedback to the company on a new trigger mechanism named the X-Mark Pro, which included a visit to the company's research and development facility in Kentucky.

When the new mechanism went into production in 2006, Barber's declaration said he believed the company had quit producing the Walker system.

In 2010, while watching the CNBC documentary, Barber was surprised to learn the company continued to use that system and maintained it was safe and reliable.

"I was shocked," Barber's declaration said.

Barber said he has dedicated his life to learning everything he can about the Model 700 and the Walker fire control mechanism.

"None of my work so far has enabled me to achieve my primary goal - to ensure that no one else has to go through what my family goes through every year," he said, in the declaration.

At this point, Barber said he's decided the only way to prevent future accidents is to convince Remington to issue an "adequate warning" about the dangers of the Walker fire control and recall the reported 5 million Model 700 rifles it produced since 1962 and refit them with the X-Mark Pro system.

"I do not want another unsuspecting family to suffer the pain we have to endure because Remington is able to hide the dangerous nature of these rifles behind a blanket guarantee of court secrecy," Barber's declaration reads. "As long as the Aleksich court records remain sealed and locked away, people will continue to be subjected to unnecessary risk and Remington will be able to continue lying to the public."

Even if a recall doesn't occur, Barber told the court unsealing the documents would offer the public a chance to review information it needs to make an informed decision regarding the safety of the rifle.

"It is my great hope that once the Aleksich court record is unsealed, the public will finally be able to see the truth: that Remington has know about these dangerous malfunctions in its rifles since the 1940s, and that Remington has engaged in monumental efforts to keep the defects - and its knowledge of the defects - a secret," Barber's declaration reads.