

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

IAN POLLARD, on behalf of himself)	
and all others similarly situated,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:13-cv-00086-ODS
)	
REMINGTON ARMS COMPANY, LLC, et al.)	
)	
Defendants.)	

**AMENDED ORDER PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

This case commenced in January 2013. Now pending before the Court is a motion to approve a Settlement Agreement (“Agreement”) between Plaintiffs Ian Pollard, William G. Moodie, James W. Waterman, Wallace Brown, Rodney Barbre, Mitchell Winterburn, Gordon Hardaway, Chase Delperdang, Gary Otis, Roger Keesy, Dylan Anderson, John Corsi and William Massie, and Defendants Remington Arms Company, LLC (“Remington”), E.I. Du Pont De Nemours (“DuPont”), and Sporting Goods Properties, Inc. (“SGPI”).

The Court has reviewed the First Amended Class Action Complaint (Doc. 87-1), the Joint Motion for Conditional Certification of Settlement Classes, Preliminary Approval of Class Action Settlement, Approval of Notice Plan, Appointment of Class Action Settlement Administrator, and Appointment of Class Counsel, the Suggestions in Support, and all of the exhibits attached thereto. The Court has also reviewed the Supplemental Joint Motion for Conditional Certification of Settlement Classes,

Preliminary Approval of Class Action Settlement, Approval of Notice Plan, Appointment of Class Action Settlement Administrator, and Appointment of Class Counsel, the Suggestions in Support, and all of the exhibits attached thereto. Having done so, the motion is granted. Doc. #85. Accordingly, the Court orders as follows:

1. The terms of the Agreement, and the Settlement as provided therein, are approved preliminarily as fair, reasonable and adequate to the Settlement Classes as defined in the Agreement, and subject to further consideration at the Final Approval Hearing.

2. The definitions set forth in the Agreement are hereby incorporated by reference into this Order.

3. The Parties have executed the Agreement in order to settle and resolve this Action on a nationwide basis, subject to approval of the Court.

4. Accordingly, for the purpose of a settlement in accordance with the Agreement, and upon review of the Parties' Joint Motion for Preliminary Approval of Class Action Settlement, this Court hereby certifies the following class of persons as Settlement Classes:

Settlement Class A:

Class A(1) – Plaintiffs Moodie and Waterman:

All current owners of Remington Model 700, Seven, Sportsman 78, and 673 firearms containing a Remington trigger mechanism that utilizes a trigger connector. Excluded from the class are: (a) persons who are neither citizens nor residents of the United States or its territories; (b) any Judge or Magistrate Judge presiding over the action and members of their families; (c) governmental purchasers; (d) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. du Pont Nemours and Company, and each of their subsidiaries and affiliates (the "Trigger Connector Class").

Class A(2) – Plaintiff Delperdang:

All current owners of Remington Model 710, 715, and 770, firearms containing a Remington trigger mechanism that utilizes a trigger connector. Excluded from the class are: (a) persons who are neither citizens nor residents of the United States or its territories; (b) any Judge or Magistrate Judge presiding over the action and members of their families; (c) governmental purchasers; (d) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. du Pont Nemours and Company, and each of their subsidiaries and affiliates (the “Trigger Connector Class”).

Class A(3) – Plaintiffs Otis and Keesy:

All current owners of Remington Model 600, 660, and XP-100 firearms containing a Remington trigger mechanism that utilizes a trigger connector. Excluded from the class are: (a) persons who are neither citizens nor residents of the United States or its territories; (b) any Judge or Magistrate Judge presiding over the action and members of their families; (c) governmental purchasers; (d) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. du Pont Nemours and Company, and each of their subsidiaries and affiliates (the “Trigger Connector Class”).

Class A(4) – Plaintiff Barbre:

All current owners of Remington Model 721, 722, and 725 firearms containing a Remington trigger mechanism that utilizes a trigger connector. Excluded from the class are: (a) persons who are neither citizens nor residents of the United States or its territories; (b) any Judge or Magistrate Judge presiding over the action and members of their families; (c) governmental purchasers; (d) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. du Pont Nemours and Company, and each of their subsidiaries and affiliates (the “Trigger Connector Class”).

Settlement Class B:

Class B(1) – Plaintiffs Brown, Winterburn, and Hardaway:

All current owners of Remington Model 700 and Model Seven rifles containing an X-Mark Pro trigger mechanism manufactured from May 1, 2006 to April 9, 2014 who have not participated in the voluntary X-Mark Pro product recall.

Excluded from the class are: (a) persons who are neither citizens nor residents of the United States or its territories; (b) any Judge or Magistrate Judge presiding over the action and members of their families; (c) governmental purchasers; (d) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. du Pont Nemours and Company, and each of their subsidiaries and affiliates (the “X-Mark Pro Class”).

Class B(2) – Plaintiffs Pollard, Anderson, Corsi, and Massie:

All current and former owners of Remington Model 700 and Model Seven rifles who replaced their rifle’s original Walker trigger mechanism with an X-Mark Pro trigger mechanism manufactured from May 1, 2006 to April 9, 2014. Excluded from the class are: (a) persons who are neither citizens nor residents of the United States or its territories; (b) any Judge or Magistrate Judge presiding over the action and members of their families; (c) governmental purchasers; (d) Remington Arms Company, LLC, Sporting Goods Properties, Inc., E.I. du Pont Nemours and Company, and each of their subsidiaries and affiliates (the “X-Mark Pro Class”).

5. Pursuant to the Agreement, and for purposes of the Settlement only, the Court finds preliminarily that:

a. The Settlement Classes are so numerous that joinder of all members is impracticable;

b. There are questions of law or fact common to the Settlement Classes that predominate over questions affecting only individual members of the Settlement Classes.

c. The claims of the Named Plaintiffs are typical of those members of the Settlement Classes.

d. The Named Plaintiffs and Plaintiffs’ Counsel will fairly and adequately represent and protect the interests of the members of the Settlement Classes.

e. Certification of the Settlement Classes is an appropriate method for the fair and efficient adjudication of the controversies between the Class Members and Defendants.

6. For the purposes of this preliminary approval, and for all matters relating to the Settlement and the Action, until further order of the Court, the Court appoints the named Plaintiffs as Representatives of the Settlement Classes and Richard J. Arsenault, Charles E. Schaffer, Eric D. Holland and W. Mark Lanier as Class Counsel.

7. The Court appoints Angeion Group as the Class Action Settlement Administrator.

8. By this Order, the Court hereby exercises subject matter and personal jurisdiction over the Settlement Classes for purposes of evaluating the final certification of the Settlement Classes and the fairness and adequacy of the Settlement.

9. The Notice Plan, in a form substantially the same as that set forth in the Settlement Agreement and in the Declarations of Steven Weisbrot (Docs. 80-11 and 86-12), is hereby approved and shall be implemented.

10. The Notice Plan methodologies (a) protect the interests of the named Plaintiffs, the Settlement Classes, and Defendants, (b) are the best notices practicable under the circumstances, and (c) are reasonably calculated to apprise the Settlement Classes of the proposed Settlement, the Agreement, and their right to opt out and exclude themselves from or object to the proposed Settlement. In addition, the Court finds that the notice methodologies are reasonable and constitute due, adequate and sufficient notice to all persons entitled to receive notice of the proposed Settlement and meet all applicable requirements of law, including, but not limited to, Fed R. Civ. P. 23

and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

11. Any member of the Settlement Classes desiring exclusion shall mail a request for exclusion (“Request for Exclusion”) to the Class Action Settlement Administrator. To be valid, the Request for Exclusion must be **received** on or before **October 5, 2015**. Such Request for Exclusion must be in writing and be sent to the Class Action Settlement Administrator via certified or first class mail at the address provided in the Long Form Notice and specifying that he or she wants to be excluded and otherwise complying with the terms stated in the Long Form Notice and Preliminary Approval Order. The Class Action Settlement Administrator shall promptly forward copies of any written Requests for Exclusion to Class Counsel and Defendants’ Counsel. A list reflecting all Requests for Exclusion shall be filed with the Court by the Class Action Settlement Administrator no later than **21 days** before the Final Approval Hearing. Any member of the Settlement Classes who does not properly and timely request exclusion from the Settlement in full compliance with these requirements shall be included in the Settlement and be bound by any judgment entered in this Action with respect to the Settlement Classes.

12. The Class Action Settlement Administrator shall file with the Court a list of those persons who have opted out or objected to the Settlement no later than **21 days** prior to the Final Approval Hearing. The Class Action Settlement Administrator shall also file with the Court the details outlining the scope, method and results of the notice program.

13. A hearing (“the Final Approval Hearing”) shall be held at 1 p.m. on **December 14, 2015**, in courtroom 8C, Charles Evans Whittaker Courthouse, 400 E. Ninth Street, Kansas City, Missouri 64106. At the Final Approval Hearing, the Court will consider: (a) the fairness, reasonableness, and adequacy of the Settlement; (b) the entry of any final order or judgment in the Action with respect to the Settlement Classes; (c) the application for Representative Plaintiff Awards for the services rendered by the Named Plaintiffs; (d) the application for attorneys’ fees; and (e) other related matters. The Final Approval Hearing may be postponed, adjourned or continued by Order of the Court without further notice to the Settlement Classes.

14. To be considered at the Final Approval Hearing, any Settlement Class Member desiring to file an objection or other comment on the Settlement shall be required to file all such objections and comments and all supporting pleadings on or before **October 5, 2015**, via certified or first class mail to the Court and the Class Action Settlement Administrator. The objection must bear the signature of the Settlement Class Member (even if represented by counsel), the Settlement Class Member’s current address and telephone number, the firearm’s model and serial number, and state the exact nature of the objection including any legal support the Settlement Class Member wishes to introduce in support of the objection, and whether or not the Settlement Class Member intends to appear at the Final Approval Hearing. If the Settlement Class Member is represented by counsel, the objection shall also be signed by the attorney who represents the Settlement Class Member and state whether the attorney representing the objector will appear at the Final Approval Hearing.

15. Unless otherwise ordered by the Court, no objection to or other comment concerning the Settlement shall be heard unless timely filed in accordance with the respective guidelines specified above.

16. Any Settlement Class Member who does not make his or her objection in a manner provided in this Order shall be deemed to have waived any such objection and shall forever be barred from making any objection to the Settlement, including without limitation, the propriety of class certification, the adequacy of notice, or the fairness, adequacy or reasonableness of the Settlement.

17. Any attorney hired by any Settlement Class Member for the purpose of appearing and/or making an objection shall file his or her entry of appearance at the Settlement Class Member's expense no later than 5 days after the objection has been filed, with service on Class Counsel and Defendants' Counsel per the Federal Rules of Civil Procedure.

18. Any Settlement Class Member may appear at the Final Approval Hearing in person, or by counsel if an appearance is filed and served as provided in the Notice Plan, and such person will be heard to the extent allowed by the Court. No Settlement Class Member shall be permitted to be heard unless they comply with the provisions stated above.

19. All other events contemplated under the Agreement to occur after entry of this Order and before the Final Approval Hearing shall be governed by the Agreement and the Notice Plan, to the extent not inconsistent herewith. Class Counsel and Defendants' Counsel shall take further actions as required by the Agreement.

20. The parties shall be authorized to make non-material changes to the Notice Plan, including the Notices, Claim Forms, and Refund Request Form, so long as Class Counsel and Defendants' Counsel agree and one of the Parties files a notice thereof with the Court prior to the Final Approval Hearing. Neither the insertion of dates nor the correction of typographical or grammatical errors shall be deemed a change to the Notice Plan.

21. All claims against and motions involving Defendants are hereby stayed and suspended until further order of this Court, other than such as may be necessary to carry out the terms and conditions of the Agreement or the responsibilities related or incidental thereto.

22. If Final Approval of the Settlement does not occur, or if the Settlement does not become effective on or before the Effective Date as provided in the Agreement, or if the Settlement is rescinded or terminated for any reason, the Settlement and all proceedings had in connection therewith shall be null and void and without prejudice to the rights of the Parties before the Settlement was executed and made, and this Order and all Orders issued pursuant to the Settlement shall be vacated, rescinded, canceled, and annulled and deemed "void" and/or "no longer equitable" for purposes of Federal Rule of Civil Procedure 60, as provided in Paragraph 120 of the Agreement.

23. Neither this Order, the Agreement, nor any of their terms or provisions, nor any of the negotiations between the Parties or their counsel (nor any action taken to carry out this Order), is, may be construed as, or may be used as an admission or concession by or against any of the Parties or the Released Persons of (i) the validity of

any claim or liability, any alleged violation or failure to comply with an law, any alleged breach of contract, any legal or factual argument, contention or assertion, (ii) the truth or relevance of any fact alleged by Plaintiffs, (iii) the existence of any class alleged by Plaintiffs, (iv) the propriety of class certification if the Action were to be litigated rather than settled, (v) the validity of any claim or any defense that has been or could have been asserted in the Action or in any other litigation; (vi) that the consideration to be given to the Class Members hereunder represents the amount which could be or would have been recovered by any such persons after trial; or (vii) the propriety of class certification in any other proceeding or action. Entering into or carrying out the Agreement, and any negotiations or proceedings related to it, shall not in any way be construed as or deemed evidence of, an admission or concession as to the denials, defenses, or factual or legal positions of Defendants, and shall not be offered or received in evidence in the Action or any action or proceeding against any party in any court, administrative agency or other tribunal for any purpose whatsoever, except as is necessary (a) to enforce the terms of this Order and Agreement or (b) to show, if appropriate, the recoveries obtained by the named Plaintiffs and Class Members hereunder, including, but without limitation, the damages, attorneys' fees award and costs; provided, however, that this Order and the Agreement may be filed by Defendants in any action filed against or by Defendants, or any other Released Person, to support a defense of *res judicata*, collateral estoppel, release, waiver, good faith settlement, judgment bar or reduction, full faith and credit, or any other theory of claim preclusion, issue preclusion or similar defense or counterclaim. Defendants expressly

reserve all rights and defenses to any claims and do not waive any such rights or defenses in the event that the Agreement is not approved for any reason.

24. The Parties have proposed, and the Court adopts, the following schedule regarding Notice to the Settlement Classes and final approval of the Settlement Agreement:

Event	Time For Compliance
Completion of Notice Plan	July 20, 2015
Deadline for Filing Joint Motion for Final Settlement Approval	September 4, 2015
Deadline for Filing Plaintiffs' Motion for Attorneys' Fees and Representative Plaintiff Awards	September 4, 2015
Deadline for Opting Out or Objecting	October 5, 2015
Deadline for the Parties' Response(s) to Objections (if any)	November 23, 2015
Final Approval Hearing	December 14, 2015 at 1p.m.

IT IS SO ORDERED.

DATE: April 14, 2015

/s/ Ortrie D. Smith
ORTRIE D. SMITH, SENIOR JUDGE
UNITED STATES DISTRICT COURT