

MISSOURI LAWYERS WEEKLY

Case settled with gun maker for \$357,500



Morry S. Cole

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A teenage boy injured when a hunting rifle accidentally discharged settled his lawsuit against the firearm manufacturer for \$357,500 and court costs.

U.S. District Judge Catherine Perry approved the settlement on July 28.

The boy, who lives outside Kennett, Mo., in the Missouri Bootheel, was 15 and hunting coyotes with two friends when he was injured in January 2005. They were having problems with one of the rifles and walked back to the car to try to fix the problem; when they were putting the rifle back together, it inadvertently discharged, shooting the plaintiff in the right arm, according to the plaintiff's attorney, Morry Cole of Gray, Ritter & Graham.

"We're thankful he still has an arm," said Radonna Fox, the mother and next friend of the 17-year-old plaintiff, identi-

fied in court documents only as D.K.F. Fox was testifying in the settlement hearing.

D.K.F. testified that his arm does have full range of motion, but it is weaker than it was before the injury. However, he could still lose his arm if it suffers another trauma.

Court documents show defendant Remington Arms Co. argued the shooting occurred not because its product was defective but because the rifle was mishandled. Cole explained, "The No. 1 rule of gun handling is you should never point the barrel at anything that you don't intend to shoot. And one of these young men inadvertently had it pointed in the direction of his friend."

But Cole was prepared to prove the allegations that the rifle was defective by "re-creating the disassembly and reassembly and showing that the gun would release the firing pin and discharge a bullet without pulling the trigger."

"Obviously, we'd have to videotape that outside a courtroom," he laughed.

Settlement talks came after the initial round of discovery, said Cole, noting both sides realized there were liability and damage amount questions that presented risk.

Remington Arms will use \$205,000 to purchase an annuity for D.K.F. The structured settlement annuity, to be purchased from American General Life Insurance Co., has D.K.F. receiving \$30,000 on his 18th birthday, April 17, 2007; \$60,000 in 2012; \$90,000 in 2017; and \$185,000 in 2022. D.K.F. will have received \$365,000 from the annuity by the time he turns 33.

"The advantages [of a structured settlement] are that, unlike a probate estate, it stretches out the period of time over which the young man receives the settlement monies, but it also allows the settlement monies to grow tax-free until he receives them," said Cole.