

## Exhibit 41

To Defendants' Memorandum in Support of Motion for  
Summary Judgment

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
(Northern Division)

SHAWN J. TARDY, et al.

Plaintiffs

Case No.

vs.

1:13-cv-02841-CCB

MARTIN J. O'MALLEY, et al.

Defendants

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The deposition of JIM SUPICA was taken on Monday, January 6 2014, commencing at 1:40 p.m., at the Office of the Attorney General, 200 Saint Paul Place, 20th Floor, Baltimore, Maryland 21202, before Dawn L. Venker, Notary Public.

REPORTED BY: Dawn L. Venker

Page 74

1 time?  
2 MR. PORTER: Object to the form of the  
3 question.  
4 A. Yeah. Yeah. I don't think so.  
5 Q. If you know.  
6 A. I don't think it was. I think -- my  
7 understanding of the assault rifle -- and I don't when  
8 the word "weapon" started to be substituted for rifle.  
9 The word is "gewehr," and I don't know if that's rifle  
10 or gun or interchangeable for both of them.  
11 But the assault rifle concept, as I  
12 understand it, intrinsically must have that select fire  
13 capacity. That's the intention of it, and that's one  
14 of the primary reasons for using an intermediate power  
15 cartridge is for it to be more controllable in full  
16 automatic fire than a full power rifle cartridge in the  
17 .308, .30-06 8 millimeter class.  
18 THE WITNESS: .30-06 is .-3-0-0-6.  
19 Q. Thank you. The SKS was designed by the  
20 Soviet military?  
21 A. Yes. I think a guy named Simonov with the

Page 75

1 assault -- with the -- with the Russian military.  
2 The Russian military had designed  
3 competitions going on within their military development  
4 to try and come up with the next generation of military  
5 rifle, and SKS was kind an intermediate step before  
6 they developed the -- the AK pattern rifles.  
7 Q. And would you tell me little bit about AKs?  
8 A. The AK originally designed as the AK-47,  
9 Mikhail Kalashnikov is attributed as the primary  
10 designer. It has a detachable magazine. It has select  
11 fire. It is shoulder fired. It is not the first but  
12 is one of the earlier firearms to use a distinct pistol  
13 grip separate from stock that descends vertically from  
14 the rear of the frame. Well, it -- yeah. Yeah. In  
15 terms of -- in a rifle that would be true.  
16 The most widely produced firearm in the  
17 world. In terms of the pattern, it has been used over  
18 and over and over. Used by the Communist bloc  
19 throughout the cold war and beyond. It has a  
20 reputation for reliability even in the worst  
21 environmental conditions and even with very minimal or

Page 76

1 no maintenance.  
2 Q. Is it in your definition of an assault  
3 rifle a true assault rifle?  
4 A. The original AK-47 with select fire  
5 capacity is an assault rifle.  
6 Q. And it was developed by the Soviet  
7 military?  
8 A. Yes, it was.  
9 Q. And who is Eugene Stoner?  
10 A. Stoner is one of the gentlemen responsible  
11 for the development of the AR-15 and M16 pattern  
12 firearms.  
13 Q. You described those -- your answer  
14 described those as separate things. Is it your  
15 contention that those are separate?  
16 A. Yes.  
17 Q. And could you explain that to me?  
18 A. They are particularly separate in the  
19 terminology that is used today. If I understand  
20 correctly, Stoner and the other people who were  
21 working -- I believe it was ArmaLite -- developing

Page 77

1 these in the 1950s originally came up with the select  
2 fire firearm named the AR-15. I think they used that  
3 designation before the military adopted it and named it  
4 the M16.  
5 But once the firearm actually came into  
6 production, an M16 pattern firearm would generally be a  
7 true assault rifle firearm in that it is selected fire.  
8 And AR-15 is a semi-automatic firearm.  
9 Q. I'm sorry. Oh, are you finished with your  
10 answer?  
11 A. Yeah. Unless you want to know more.  
12 Q. I do want to know more. Was Stoner  
13 designing that AR-15 for civilian use.  
14 A. My understanding it's -- the intention was  
15 both to design it for civilian and military use. I  
16 think they were developed simultaneously. I believe  
17 that semi-automatic sporting version of this was  
18 introduced by Colt at about the same time -- the AR-15  
19 pattern was introduced about the same year that  
20 military made its first large purchase of the M16  
21 machine gun assault rifle pattern.

Page 78

1 Q. I understand that the US Army was having a  
2 competition at that time for what was going to be its  
3 primary rifle?  
4 A. I believe that's correct.  
5 Q. Can you describe that competition?  
6 A. I can't tell you a great deal about it.  
7 You know, the information is out there. You can  
8 research it, but I haven't done a lot of research on it  
9 lately.  
10 Q. Do you know what aspects of it made the --  
11 the weapon selected -- what were its characteristics  
12 that made it select --  
13 MR. PORTER: Object to form of the  
14 question.  
15 Q. -- if you know?  
16 MR. PORTER: Just for purposes of  
17 classifications, you used "it" in there a couple times.  
18 I wasn't sure if you meant the firearm or the test  
19 or --  
20 MR. FRIEDMAN: I was trying to give him the  
21 flexibility to not call it by either of those two

Page 79

1 names.  
2 A. Ask again, please.  
3 Q. Why did the rifle developed by ArmaLite  
4 succeed in winning the competition?  
5 A. There are books that can and have -- can be  
6 and have been written on that, and it was not without  
7 controversy. Again, it's an area -- really, if you  
8 want to go into that, I should do more research.  
9 Factors that I recall being of interest to  
10 the military were the selected fire capacity using an  
11 intermediate power cartridge so that when fired in full  
12 automatic mode, it would be controllable.  
13 The issue military rifle between the M1  
14 Garand and the M16 primary rifle was the M14, which was  
15 in .308 caliber. Now that caliber is about twice as  
16 powerful as the round that is chambered traditionally  
17 for M16. So when it's fired full auto, that barrel  
18 tends to rise, and you are off target nearly right away  
19 wasting rounds and putting rounds where you don't want  
20 them to be.  
21 The military wanted this new rifle to be

Page 80

1 controllable in full auto fire. So one of the things  
2 that involved was a less powerful cartridge that didn't  
3 generate that high amount of recoil. Also, a cartridge  
4 that didn't generate punishing recoil when fired full  
5 auto. They also liked the fact that the ammunition  
6 weighed significantly less than the previous .30-06 or  
7 .308 round so that a soldier could carry more  
8 ammunition. I imagine they like the ergonomics of the  
9 rifle that directed the recoil directly back into the  
10 shoulder and gave a pistol grip that made it easier to  
11 fire accurately from the shoulder. So I would imagine  
12 that those are some of the criteria that military liked  
13 when they adopted this.  
14 Q. On Page -- what I think I've marked as Page  
15 12 of your report, you list a few factors. Were these  
16 factors that you've listed here at the bottom of 12,  
17 and at the top of 13, factors that the military cared  
18 about in selecting the ArmaLite rifle?  
19 A. I believe they would be. Let's go through  
20 them.  
21 The use of improved materials such as

Page 81

1 plastics or other synthetic stocks replacing  
2 traditional wood stocks. Increased use of aluminum and  
3 light weight alloy. Certainly that affects the weight  
4 of the rifle and the durability of the rifle in certain  
5 harsh environmental conditions. So that would probably  
6 be -- have been desirable to the military.  
7 Use of more efficient manufacturing  
8 techniques. Again, that impacts the cost. So that's  
9 probably an interest to anyone who's considering that  
10 gun.  
11 Improved ergonomics, we've discussed that  
12 already.  
13 The adjustable stocks really didn't come  
14 out on the original M16s. I believe that was a later  
15 adoption. So that probably wasn't a consideration at  
16 the time.  
17 Folding stocks. Again, folding stocks are  
18 not possible on a true M16 or AR-15 because of the  
19 buffer tube that extends back into area where  
20 traditionally there would be a folding stock. So  
21 folding stocks would not have been a factor for M16.

Page 106

1 times for switching magazines?  
2 A. Yeah. How long it takes to change a  
3 magazine?  
4 Q. Yes, sir. I'm sorry. I asked that question  
5 badly. What is the source of that information?  
6 A. Experience and research.  
7 Q. And what is your view about how long it  
8 does take to swap a magazine out?  
9 A. For someone who's is trained fairly  
10 committedly, two to four seconds would be a reasonable  
11 time to switch a magazine. For someone who is not  
12 familiar with their gun, who is trying to do it in a  
13 high stress situation, a low light situation, somebody  
14 who has one hand busy with something else, it can take  
15 much longer.  
16 Q. Does that pause affect both an aggressor in  
17 a criminal situation as well as a defender, or only one  
18 side?  
19 A. Well, I gave two situations there. And  
20 there is range of how long does it take to change a  
21 magazine in between. I would think that the situation

Page 107

1 of the circumstances, and the individual involved, and  
2 that individual's level of practice, training, and  
3 mindset, and whether it is something that has come up  
4 on them suddenly, or something that they've entered  
5 into with the liberation [sic] and intention and  
6 practice, would make a difference more so than whether  
7 their intent is between defensive or criminal  
8 aggressive.  
9 Q. So if I understood your answer, it affects  
10 one side more than another?  
11 MR. PORTER: Object to the form of the  
12 question.  
13 A. Yeah. That's not what I said. I said it  
14 affects depending on the individual and the  
15 circumstances. I think that somebody who is committed  
16 to training, and very well-trained, who is taken by  
17 surprise in a life and death situation and is trying to  
18 manage multiple tasks at the same time they are trying  
19 to defend themselves with a firearm, it would affect in a  
20 different manner. Certainly a criminal who grabs a  
21 firearm impulsively, has not trained with it, it could

Page 108

1 take him a long time to do it as well. A criminal who  
2 enters a situation with an intent to do maximum  
3 damages, cause maximum fatalities, and who has trained  
4 and is going into this with the mindset that this is  
5 what they are going to do with their ammunition  
6 prepared, I think they would be -- be faster than  
7 someone who was taken unaware.  
8 MR. FRIEDMAN: Excuse me.  
9 (A recess was taken.)  
10 Q. Should have prepared this while you were  
11 out. I'm going to show you -- on Page 15 of your  
12 report you talk about sport shooting.  
13 A. Starting at D?  
14 Q. Yes, sir.  
15 A. Yes, sir.  
16 Q. I'm going to show you a picture. I'm going  
17 to show you -- from your "Illustrated History of  
18 Firearms" I'm going to show you a page marked  
19 "Competition."  
20 A. Uh-huh.  
21 Q. And I'm going to ask you about that first

Page 109

1 weapon on that page.  
2 A. Yes, sir.  
3 Q. Can you identify that?  
4 A. That is listed as Colt Sporter Target,  
5 Model AR-15 semi-automatic rifle.  
6 Q. Is that the weapon that you are talking as  
7 being the predominant firearm in sport shooting?  
8 A. Variations of AR-15 pattern, yes, have  
9 become predominant in many types of competitive  
10 shooting and some of the most popular types of  
11 competitive shooting.  
12 Q. What does "sporter" mean in that sentence,  
13 in that designation?  
14 A. That Colt's model name for this gun.  
15 Q. Do you know what HBAR means? The  
16 designation HBAR means?  
17 A. HBAR for a Colt model generally stands for  
18 heavy barrel, which would be slightly heavier than  
19 standard barrel.  
20 Q. What is the -- for what applications would  
21 somebody want a HBAR or heavier barrel?

Page 110

1 A. The heavy barrel generally will enhance  
2 accuracy of the firearm. It is at a cost of additional  
3 weight.  
4 Q. Is it a variation that is more commonly  
5 used for competitive shooting?  
6 A. Somebody who is competitively shooting for  
7 most types of competitive shooting would be more likely  
8 to use a heavy barrel than a standard barrel. But a  
9 heavy barrel could also be used for any other of the  
10 applications that an AR pattern might be used. It  
11 would be not uncommon for it to be so used.  
12 Q. Is it possible that the reason that the  
13 Maryland General Assembly excluded Colt AR-15 Sporter  
14 HBARs was to facilitate their use in competition?  
15 MR. PORTER: Object to the form of the  
16 question.  
17 A. Well, yeah. I can't know what their  
18 intention was.  
19 Q. Neither, sir, can I.  
20 A. I can't find that model of gun listed  
21 anywhere either. I don't know that Colt ever made that

Page 111

1 model.  
2 There also has been a question arise as to  
3 whether other manufacturer's guns that are essentially  
4 identical in every manner to Colt HBAR models are  
5 exempted from the coverage of this law or not. So  
6 it's -- one could speculate that that was the  
7 legislature's intention, but I don't know that.  
8 Q. Okay. Thank you.  
9 A. Great book.  
10 Q. That's why I got to get it back. Make sure  
11 I get to keep it.  
12 We talked about self-defense. We talked  
13 self-defense earlier. Do you know of situations -- do  
14 you personally know of situations in which somebody  
15 expended 10 rounds in self-defense of the home?  
16 A. Other than police officers?  
17 Q. Self -- civilian self-defense of the home.  
18 A. I do not.  
19 Q. You talked about how training will help  
20 people swap out magazines earlier. Is that --  
21 A. One hopes that the time they spend

Page 112

1 practicing magazine changes would be of help them.  
2 Q. Does training also help avoidance of  
3 hitting unintended targets?  
4 A. It should.  
5 Q. Is there a limiting principle to your  
6 statement that more rounds is better?  
7 A. A limiting principle?  
8 Q. If 10 rounds is good, is 20 rounds better?  
9 A. Where is the statement, please?  
10 Q. Perhaps I've paraphrased. I was  
11 paraphrasing from the first and second paragraph.  
12 A. On Page 14?  
13 Q. Yes, sir.  
14 A. So that -- the bold face, or the first one  
15 after the bold face?  
16 Q. The first one after the bold face.  
17 A. "Semi-auto firearms with the detachable  
18 standard-capacity magazines holding more than 10 rounds  
19 are probably the most popular types of rifles and  
20 pistols for personal" --  
21 Q. That doesn't say that. Please continue.

Page 113

1 A. "The ability to have as many rounds as  
2 needed to end the threat is essential in self-defense  
3 use of firearms."  
4 Q. Please continue.  
5 A. "It is reported that in a majority of  
6 self-defense situations the mere display of a firearm  
7 may be enough to deter aggression with no shots needing  
8 to be fired. However, if shots must be fired, the  
9 number needed is not so simple as one shot for each  
10 aggressor. The high stress situation of a self-defense  
11 shooting is not conducive to careful marksmanship and  
12 many rounds may miss. Also, it is not certain that a  
13 single hit on an aggressor will end the threat posed.  
14 The self-defense shooter must have enough rounds to  
15 safely resolve the attack, and there is no guarantee  
16 that 10 rounds will be enough."  
17 Q. Right. Is there a limiting principle  
18 that --  
19 A. Can you have too many rounds?  
20 Q. Can you have too -- what is the limiting  
21 principle?

Page 114

1 A. Well, its been discussed a couple points in  
2 the report. There are times at which too much  
3 ammunition becomes -- makes -- you have too much  
4 ammunition in situations where one is using an after  
5 market very high-capacity magazine that tends not to  
6 work as reliably as an original standard-capacity  
7 magazine. That would be a situation.  
8 A situation where the weight of the ammo is  
9 such that it makes the gun difficult to handle or  
10 difficult to shoot effectively. That would be another  
11 one.  
12 Those I think would be primary situations I  
13 can think of off the top of my head where you could  
14 have too much ammo in a self-defense firearm.  
15 Q. I'm jumping around because I'm trying to  
16 move us along.  
17 A. Cool.  
18 Q. We are back on competitive shooting. What  
19 did competitive shooters use before the 1980s?  
20 A. Traditionally the most popular competitive  
21 shooters have been what are called service-rifle

Page 115

1 matches. They tended to use whatever was the nearest  
2 commercial equivalent of the US military service rifle.  
3 So before the AR-15, it would have been M1A  
4 or the Garand, and before that it could have been the  
5 Springfield 03. And before that it would have been any  
6 type of a number of single-shot actions that gave good  
7 accuracy.  
8 Q. Okay. On Page 15 -- nope. 16.  
9 A. Yes, sir.  
10 Q. E.  
11 A. E.  
12 Q. E, this is "Unintended Consequences." And  
13 you talk about how when there are magazine  
14 restrictions, they are likely to choose a compact  
15 firearm. And I didn't understand the relationship  
16 between those two things, and I was hoping you could  
17 explain it to me.  
18 A. Sure. We've discussed that generally for  
19 self-defense firearms more rounds are better than  
20 fewer. When -- when magazines capacities are  
21 artificially restricted, the buyer of a self-defense

Page 116

1 arm can't get any advantage from the larger gun over  
2 the smaller, more compact, more concealable gun.  
3 Either one of them carries 10 rounds.  
4 My observation of the gun market in  
5 response to restrictions on magazines is that the  
6 buyers will move to the maximum capacity but in a more  
7 compact gun. Now, I don't know that that's a big deal,  
8 but that's my observation.  
9 Q. Okay. And are smaller more compact  
10 handguns less effective than a full-size handgun?  
11 A. More compact firearms are generally harder  
12 to shoot accurately than full-size handguns. They are  
13 also easier to conceal. So it's a switch to a gun that  
14 tends to be less accurate in defensive use and to be  
15 easier to conceal.  
16 Q. A flash suppressor. You talk about it  
17 as -- potentially as a safety device?  
18 A. Yes, sir.  
19 Q. Can you explain that? Why is that?  
20 A. Well, I take the definition from the law  
21 itself. They define a flash suppressor as a "device

Page 117

1 that functions or is intended to function to  
2 preceptively reduce or redirect muzzle flash from a  
3 shooter's field of vision."  
4 Now, if that works as it does -- and I  
5 don't know if they do or not. I have not done a real  
6 study of how effective flash hidere are, and I've heard  
7 people comment that there are many types of ammunition  
8 where flash hidere doesn't make a difference at all.  
9 Assuming it works as it was defined there,  
10 there are a number of legitimate self-defense  
11 situations where if you have more muzzle flash, you  
12 create a serious problem for the defensive shooter.  
13 And it's easy to understand what those might be  
14 particularly in low light or dark situation. If they  
15 are blinded by the muzzle flash temporarily, they don't  
16 know if the threat has been neutralized or not. It is  
17 hard for them to check for other aggressors. It's hard  
18 for them to identify other individuals, whether they  
19 are family or a threat or law enforcement.  
20 So I'm hard-pressed to see a reason to  
21 restrict flash suppressors if they indeed work as they

Page 146

1 A. I don't know. Franchi. Do you know where  
2 Franchi is made?  
3 Q. How about the Steyr-AUG-SA semi-auto?  
4 A. Yeah. Steyr -- it's a very modernistic  
5 looking gun. It's a bullpup design. And what that  
6 means is that the action is moved as far forward as it  
7 can be. So you've got -- I'm sorry, the pistol grip  
8 and trigger group are moved as far forward as it can  
9 be. So you've got the action and part of the barrel  
10 behind it. And part of the barrel in front of it.  
11 So you almost have -- it makes for a fairly  
12 short rifle. You have the pistol grip kind of forward  
13 on it, and the trigger controls. It's not sticking out  
14 there in front of you. It's a semi-automatic version  
15 of that. Detachable butt magazine. It has -- it has a  
16 glass tube sight, like a scope built into the molded  
17 handle that's attached to the stock.  
18 Q. What -- why would somebody prefer that  
19 bullpup configuration?  
20 A. It's more compact. In a -- in a -- a  
21 military police, or self-defense situation, it would be

Page 147

1 easier to maneuver in tight indoor spaces. Rather than  
2 having a lot of gun barrel sticking out in front of  
3 you, you've got the entire length of the -- you -- the  
4 length of the gun that is taken up by usually an inert  
5 stock that doesn't contribute to the function of the  
6 gun. Contains functional parts of the gun. So you  
7 don't have that artificial extension of the length of  
8 the gun.  
9 Q. How about the Galil models AR and ARM  
10 semi-auto?  
11 A. Galil is an Israeli maker. I know I've  
12 seen them. I can't tell you a great deal about them.  
13 They are just another one of these modern type  
14 semi-automatic rifles.  
15 Q. Made for the IDF?  
16 A. Probably, but I don't know. I don't  
17 their -- their origin, again.  
18 Q. Okay.  
19 A. And it could be researched.  
20 Q. Okay. The HK-91 A3, HK-93 A2, HK-94 A2 and  
21 A3?

Page 148

1 A. Yeah. Most of those are, I believe,  
2 semi-automatic versions of the H&K. Again, modern,  
3 semi-automatic rifle. I believe that design originated  
4 with CETME -- C-E-T-M-E -- but it's kind of the  
5 standard H&K high capacity semi-automatic.  
6 Q. I didn't understand what you said about  
7 CETME.  
8 A. CETME. I think that's where this design  
9 actually originated instead of with H&K.  
10 Q. It's a -- it's another manufacturer?  
11 A. It's a previous manufacturer, I believe.  
12 I'm not certain on that one.  
13 Q. I see.  
14 A. There is several types of semi-automatic  
15 rifles that are basic -- like the AR pattern is a  
16 pattern for a lot of today's modern semi-automatic  
17 rifles. There are other semi-automatic rifles of  
18 modern design that form the basis for these other  
19 models.  
20 So, you know, you've got all kinds of  
21 different models springing off the AR-15. You have all

Page 149

1 kinds of different models springing off the AK types.  
2 Those were the two most successful ones, but these  
3 other ones such as the CETME and FN FAL were also  
4 successful early designs that other models were  
5 designed after.  
6 Q. I see. Does that CETME that becomes the  
7 H&K, are those built for military applications?  
8 A. Don't know what the origin of that.  
9 Q. Are they --  
10 A. They came out during that same era when  
11 there was a brief military interest in the -- the  
12 modern stock designs, semi-automatic detachable  
13 magazines in the full power cartridge. So I don't know  
14 if it was originally designed strictly for military or  
15 if, again, they were trying to satisfy both military  
16 and the commercial market. It was never as popular  
17 as -- as many of the others.  
18 I understand it's a good and reliable  
19 design. It's -- one of these -- I think the 9 -- HK-91  
20 is in .223. The HK-93 is -- no, the other way around  
21 maybe. One is in .223. One is in .308. And I think