

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-01300-MSK-MJW

JOHN B. COOKE, Sheriff of Weld County, Colorado
TERRY MAKETA, Sheriff of El Paso County, Colorado
JUSTIN SMITH, Sheriff of Larimer County, Colorado
DAVID A. WEAVER, Sheriff of Douglas County, Colorado
BRUCE W. HARTMAN, Sheriff of Gilpin County, Colorado
KEN PUTNAM, Sheriff of Cheyenne County, Colorado
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PETER GONZALEZ, Sheriff of Archuleta County, Colorado
RICK BESECKER, Sheriff of Gunnison County, Colorado
CHARLES ROB URBACH, Sheriff of Phillips County,
Colorado, ROD FENSKE, Sheriff of Lake County, Colorado

GRAYSON ROBINSON, Sheriff of Arapahoe County, Colorado,

1 DAVID D. CAMPBELL, Sheriff of Baca County, Colorado
 MIKE NORRIS, Sheriff of Saguache County, Colorado
 2 AMOS MEDINA, Sheriff of Costilla County, Colorado
 MILES CLARK, Sheriff of Crowley County, Colorado
 3 DAVID ENCINIAS, Sheriff of Bent County, Colorado
 SUE KURTZ, Sheriff of San Juan County, Colorado
 4 JAMES (JIM) CASIAS, Sheriff of Las Animas County,
 Colorado, GARRETT WIGGINS, Sheriff of Routt County,
 5 Colorado, DOUGLAS N. DARR, Sheriff of Adams County,
 Colorado, RODNEY JOHNSON, Sheriff of Grand County,
 6 Colorado, COLORADO OUTFITTERS ASSOCIATION;
 COLORADO FARM BUREAU; NATIONAL SHOOTING SPORTS
 7 FOUNDATION; MAGPUL INDUSTRIES; COLORADO YOUTH OUTDOORS;
 USA LIBERTY ARMS; OUTDOOR BUDDIES, INC.; WOMEN FOR
 8 CONCEALED CARRY; COLORADO STATE SHOOTING ASSOCIATION;
 HAMILTON FAMILY ENTERPRISES, INC. d/b/a FAMILY SHOOTING
 9 CENTER AT CHERRY CREEK STATE PARK; DAVID STRUMILLO;
 DAVID BAYNE; DYLAN HARRELL; ROCKY MOUNTAIN SHOOTERS
 10 SUPPLY; 2ND AMENDMENT GUNSMITH & SHOOTER SUPPLY, LLC;
 BURRUD ARMS INC. d/b/a JENSEN ARMS; GREEN MOUNTAIN
 11 GUNS; JERRY; SPECIALTY SPORTS & SUPPLY; GOODS FOR THE
 WOODS;

12 Plaintiffs,

13 v.

14 JOHN W. HICKENLOOPER, Governor of the State of
 Colorado,

15 Defendant.

16 VOLUME II
 DEPOSITION OF
 17 MASSAD AYOOB,

18 taken on behalf of the Defendant

19 DATE TAKEN: October 29, 2013
 TIME: 1:00 p.m. - 3:17 p.m.
 20 PLACE: Third Circuit Reporters & Video
 106 White Avenue SE, Suite C
 Live Oak, Florida 32064

21 Examination of the witness taken before:
 22 Cassie Minnich, FPR, Court Reporter
 Notary Public, State of Florida at Large
 23 136 SW Nassau Street, Lake City, Florida 32025

24 THIRD CIRCUIT REPORTERS & VIDEO
 Toll-Free: 855-850-7038
 25 www.AllCourtReporters.com

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17

18 REPORTER'S KEY TO PUNCTUATION:

19 -- at end of question or answer references
interruption.

20

(...) References a trail-off by the speaker.
No testimony omitted.

21

22 "Uh-huh" References an affirmative sound.

23 "Huh-uh" References a negative sound.

24 (sic) References a misstatement.

25

1 Thereupon,

2 MASSAD AYOOB,

3 having been first previously duly sworn, testified

4 as follows:

5 DIRECT EXAMINATION (Continued)

6 BY MS. MOATS:

7 Q Mr. Ayob, we're back from taking a short
8 lunch break and I wanted to ask you some more
9 questions real quick about the first -- or I should
10 say the second section of your report.

11 A What page would that be, ma'am?

12 Q Well, I don't have a specific page right
13 now.

14 A Okay.

15 Q I'll just go ahead and ask you the question.

16 A I'm sorry.

17 Q With respect to people that may have a
18 lower-body disability and be confined to a
19 wheelchair, do you believe their ability to reload a
20 magazine into a gun is hindered in any way?

21 A Well, if they're in the chair, yes. The
22 reason being if I'm standing, it's fairly easy for
23 me. Let's say the spare magazine is where it's usually
24 carried, vertically on the hip opposite where the gun
25 is. For me to get it out, if I have limited range of

1 movement, getting up like this, notice how my elbow has
2 to come back (indicating). You saw how I had to lean
3 forward in this chair to do it.

4 If I was not able to put my body weight
5 forward, there was no feeling in my legs, it would be
6 much more awkward and I would have to lean my upper
7 body over to the side. The hand that's occupied with
8 the gun, that arm would have to push me back upright.
9 So, yes, it would slow them down.

10 Q Okay. Would that be assuming, though, that
11 they kept their spare magazine in the back part of
12 -- back by their hip?

13 A Yes, it would.

14 Q Okay. Is there any other way that they
15 would be hindered in having to reload if they had a
16 lower-body disability?

17 A Do you mean with the magazine in other
18 positions? I'm not sure I follow you.

19 Q Right. Is there any other way that they
20 would be hindered in being able to reload the magazine
21 into the gun if the magazine was anywhere else on
22 their body?

23 A Well, it would depend where it was. If it
24 was toward the center line of the body, they would
25 be able to access it. But if they were in public

1 carrying concealed, it would be much more difficult
2 to conceal. They would need a closed front garment
3 and then they would have to either lift the hem of
4 that garment or unbutton or unzip and open the
5 garment to get at it.

6 Q Okay. Looking back at your report, I had a
7 couple follow-up questions on page 4 above the
8 section entitled, Lower-Body Disabilities. You
9 talked again about elderly who had limited -- who
10 had limited movement in their hands, wrists and
11 fingers.

12 And as you note in your opinion: That makes
13 it extremely difficult for the user to press the
14 small magazine release button, to grasp the fresh
15 magazine, and insert the next magazine into the
16 small receptacle within the firearm.

17 I just wanted to get an idea from you about
18 how -- why it is extremely difficult for a user
19 who's elderly with limited movement of theirs hands,
20 wrists and fingers to press the magazine release
21 button.

22 A Sure. Without a pistol here to demonstrate
23 with, the button is fairly small. It's about the
24 size of the open part of my curled finger that I'm
25 indicating here. That's a small target that has to

1 be hit with the thumb that will have less dexterity
2 than when they were young, may well have less range
3 of movement than when they were young. So that will
4 be harder for them to hit.

5 Q Okay. Would something -- I know we
6 previously discussed the use of an extended
7 magazine release button for someone with shortened
8 or missing fingers. What if someone that was
9 elderly that had limited movement in their hands,
10 wrists or fingers had an extended magazine release
11 button on their gun, would that help them in terms
12 of being able to release it?

13 A It would depend. Most extended magazine
14 buttons are the same diameter, but will extend
15 farther outward from the pistol. If the thumb no
16 longer has range of movement to reach it, it's
17 academic how far it extends out because it would
18 need to be extending back toward the thumb.

19 If it does -- as I said earlier, if you get
20 one custom made that extends back toward the thumb,
21 now it's much more likely to inadvertently release
22 in normal everyday carry and turn your pistol into a
23 single shot. Some of the pistols have what's called
24 the magazine disconnect safety, which means if the
25 magazine dislodges, the round in the chamber cannot

1 be fired.

2 So it would at best, if the magazine is
3 inadvertent -- if the magazine release button has
4 been inadvertently pressed, at best it would turn
5 your 16-shot pistol into a one-shot pistol, and
6 at worst, it might render the gun completely
7 unshootable.

8 Q Okay. But there could be circumstances where
9 a gun could be modified such that the release button
10 extended back towards the thumb and that might help
11 someone who has limited movement in their hands,
12 wrists or fingers to then more easily release the
13 magazine?

14 A It could. But to put it into perspective,
15 it's still going to be much more difficult and much
16 slower than simply continuing to fire because you
17 have enough cartridges in the gun that you could.

18 Q How much slower would it be to have -- if you
19 had the extended magazine release button to -- and
20 you had a limited movement in your hands, wrists or
21 fingers, to be able to press that button versus
22 refiring?

23 MR. COLIN: Speculation.

24 THE WITNESS: Yeah. As counsel says, that
25 would be dependent on, you know, the degree of

1 the handicap and how long it took them to get
2 their hand there.

3 We also have to factor in whatever dexterity
4 problems there might be, accessing the fresh
5 magazine and bringing it to the gun and completing
6 the insertion.

7 We would then have to look at another part of
8 the gun, the slide release mechanism, which is
9 usually on the left side of the frame above the
10 trigger guard. That would have to be pressed down
11 to close slide and chamber the next round.

12 Alternatively, they would have to grasp the
13 slide, which on most semiautomatic pistols, locks
14 back when the gun is empty, and given a tug to the
15 rear to release it. So that would make it
16 relatively slower.

17 Let's say we had an expert shooter like Kevin
18 Davis who could normally reload in two seconds.
19 That is certainly faster than anybody with
20 debilitated hands is likely to be able to do it.
21 Contrast that to, as we discussed earlier, in rapid
22 fire, as little as a quarter of a second, perhaps
23 even less, to simply fire the next shot if you
24 haven't run out of ammunition.

25 So for a highly skilled firearms' instructor

1 like Kevin Davis, the two seconds it takes him to
2 go from shot number 16 to shot number 17 is still
3 eight times longer than if he could have simply
4 pulled the trigger and fired because the 17th
5 round was already in the gun.

6 BY MS. MOATS:

7 Q Okay. And with respect to your opinions
8 that you've rendered regarding people with missing
9 or shortened fingers, missing hands or arms and the
10 elderly with some sort of limited range of motion,
11 in all of those opinions you're assuming that they
12 would need to reload the magazine into the gun,
13 correct?

14 A Yes, of course.

15 Q Okay. Is there a capacity of firearm that
16 you believe is sufficient for a person with a
17 disability?

18 A It depends on the situation. My feeling is
19 the person in the situation is the one who gets to
20 choose. It's their life. It's their confidence.
21 It's their peace of mind that's at stake. None of
22 us can predict what the encounter will be or if the
23 encounter will ever even come. It's an element of
24 confidence. It's an element of peace of mind.

25 And there is the recognition that, as you see

1 in some of the materials you have printed over
2 there, some self-defense situations with private
3 citizens do escalate into high fire power; and quite
4 simply, if you don't have enough fire power to
5 prevail, you will die.

6 You may be able to prevail by -- if your gun
7 runs empty, grabbing another gun, by reloading, if
8 you can do it in time. You are much more likely to
9 be able to prevail if you can simply continue firing.

10 Q Okay. And when you say some incidents are
11 like that, do you know approximately how many -- how
12 many incidents a year are like that where you would
13 need a lot of fire power?

14 A I'm not aware of any empirical data base
15 that tracks the number of shots fired in incidents
16 nationwide. If you look at some of the other
17 research that's come to your attention in other
18 discovery in this case, in even some of the mass
19 murderers where the scene was secured thereafter
20 and became an evidence scene and was gone over by
21 many professional evidence technicians, there still
22 remains a question of exactly how many shots were
23 fired.

24 In a situation that was obviously a
25 justifiable homicide, there's probably going to be

1 fewer people counting the shots, if you will, than
2 someone who is reporting on, you know, some very
3 high-profile incident like the Aurora Movie
4 Theater.

5 So to give a long-winded answer to your short
6 question, there is no data base. We know that it
7 happens. We cannot quantify how many times it has
8 happened and none of us can predict when it will
9 happen again.

10 Q And is it fair to say if that type of
11 incident does happen, it's unknown whether or not,
12 in fact, 15 shots or more would be necessary?

13 A No one ever knows until it's over how many
14 is enough.

15 Q And in turning to some of these incidents
16 you've alluded in your testimony today, on page 5
17 of your report marked as Exhibit 3, Section III is
18 entitled, Perspective on Shootouts.

19 A Yes, ma'am.

20 Q And your report indicates that Captain
21 Richard Wemmer, the famed officer survival expert
22 from LAPD, documented multiple gun fights in which
23 police officers emptied their service pistols and
24 other spare magazines customarily worn of police
25 uniform duty belts, and had not yet won the

1 gunfights.

2 A That's correct.

3 Q Where are these multiple gun fights you
4 referred to documented?

5 A Those, I think if you go to the Los Angeles
6 County Sheriff's Department Firearms Training Unit,
7 several of those were reenacted and studied as
8 training films. And I'm sure they would make them
9 available to the Colorado Attorney General's
10 Office.

11 Q And have you reviewed these training films or
12 any of the documents?

13 A I've reviewed at least one of them. I've
14 attended Captain Wemmer's lectures.

15 Q How many are there in terms of training
16 films? When you say you've reviewed at least
17 one --

18 A There is at least one where the officer ran
19 completely dry through every magazine that he had
20 on his person. He was shooting a Baretta 9
21 millimeter with 15-shot magazines. So that would
22 have been three magazines, the chambered round, 46
23 shots.

24 There was another that it was a semiautomatic
25 pistol, but I do not recall the model or the cartridge

1 capacity. In one of Captain Wemmer's films -- I'm
2 trying to remember the name of the officer, because I
3 met him later and talked about it with him myself. He
4 had an 8 plus one shot SIG .45 caliber pistol and when
5 he ended the fight with two men who had opened fire on
6 him, one with a sawed-off shotgun and one with a sub
7 machine gun, he was down into his last of three
8 magazines.

9 The Illinois incident can be documented
10 through retired Chief Jeff Chudwin, C-h-u-d-w-i-n,
11 who I believe is still the president of the
12 Illinois Tactical Officers Association.

13 Q Okay. Going back to the -- let's see -- the
14 document in multiple gunfights in LA, again, how
15 many of those did you say you reviewed?

16 A Well, I'm thinking right now of three, two
17 where they ran out completely, one where he was
18 almost depleted. We had the Illinois incident.
19 That officer was only alive because of the timely
20 arrival of backup officers with patrol rifles.

21 There was one in Skokie, Illinois, just a
22 couple of years ago. The officer fired 20 some
23 rounds before he finally neutralized his attacker,
24 who I believe may have had two guns. And the
25 officer was wounded in that situation as well.

1 Q And were they all incidents between law
2 enforcement and a perpetrator?

3 A These were. But as I said, the
4 perpetrators those cops shot it out with are the
5 exact same perpetrators that the armed citizens
6 fear and hope to protect themselves from.

7 Q And with respect to the incidents you did
8 review, what were the events that led up to those
9 gunfights?

10 MR. COLIN: Over broad.

11 THE WITNESS: Okay. The incident with the
12 officer with the SIG .45, he was responding to
13 an armed robbery in progress. The other two in
14 Los Angles, I do not recall.

15 The one in Illinois began when the officer
16 pulled the vehicle over and the subject was
17 ensconced in, what I recall at this time, to be
18 a pickup truck and he opened fire; and his cover
19 basically absorbed most of the shots the officer
20 fired at him.

21 I do not recall the predicate incident that
22 led to that pull over. The Skokie incident, I
23 believe that officer also was responding to armed
24 robbery and saw a vehicle that fit the description
25 of the fleeing robber's vehicle.

1 BY MS. MOATS:

2 Q Okay. So in that same paragraph under -- the
3 first paragraph under Perspective on Shootouts on
4 page five, when you say: A similar incident was
5 documented not long ago in Illinois involving a
6 lone officer with 3 15-shot pistol magazines against
7 a well --

8 A Ensconced.

9 Q -- ensconced and heavily (as spoken) offender.
10 Is that the one you were just referring to?

11 A That was the one I referred you to Chief
12 Chudwin for the details.

13 Q Okay.

14 A The Skokie Officer, I do not recall his
15 name. He was armed with a .45 caliber Glock with
16 a 13-round magazine.

17 Q And you think that involved some sort of a
18 -- basically the police office was pulling this
19 perpetrator over and a fight ensued, a gunfight
20 ensued?

21 A Basically the man came out of the car
22 shooting.

23 Q Okay. And you don't know what precipitated
24 the traffic stop?

25 A I don't recall what did in the incident that

1 I mentioned here. But in the Skokey incident, I
2 believe the vehicle fit the description of one that
3 had been involved in a crime and that's why the
4 officer was pursuing him when he pulled him over.

5 Q Okay. At the end of that paragraph, you
6 note: While these were law enforcement incidents,
7 it must always be remembered that many private
8 citizens own their guns to protect themselves from
9 the very same criminals that society arms our police
10 to deal with.

11 Do you know of any statistics on how often
12 private citizens in the State of Colorado have had
13 to defend themselves against heavily armed
14 perpetrators?

15 A Well, I'm not sure what your cutoff line is
16 for heavily armed and lightly armed, dangerous
17 life-threatening perpetrators. If you go to the
18 National Rifle Association website, which tracks
19 their column called Armed Citizens -- The Armed
20 Citizen.

21 There are 60 to 80 some that track back
22 to Colorado. Each of those comes from a news
23 clipping from the local paper that's sent to the
24 association by a member. And they certainly do not
25 reflect the totality and they may well be just the

1 tip of the iceberg of those incidents. And those
2 also are only the ones that make the newspaper.

3 Q And when you refer to this NRA website, what
4 -- when you say 60 to 80, what types of incidents
5 are you referring to?

6 A Those would be citizen incidents where the
7 citizen was attacked on the street it may have been
8 just a dangerous animal like a bear or a wild dog,
9 or had to fight off burglars and home invaders
10 inside their homes.

11 Q Okay. And this is on the NRA Website under
12 The Armed Citizen?

13 A I believe that's what it's under, ma'am.
14 If you can't find it, you can shoot me an email or
15 give me a request through Mr. Colin and I will get
16 the link to you.

17 Q Okay. And when you say 60 to 80 incidents,
18 this was in the State of Colorado, correct?

19 A Correct.

20 Q And over what period of time were these
21 incidents tracked?

22 A That I believe that goes back from 1959 to
23 recently.

24 Q So between 1959 and recently, 60 to 80
25 incidents in the State of Colorado involving some

1 sort of attack on a citizen?

2 A Some sort of situation when an armed citizen
3 saved themselves or others from potential death or
4 a crippling injury.

5 Q And did you include this reference in your
6 report, this website?

7 A No, ma'am, I did not.

8 Q Okay. And with respect to these incidents,
9 is there any information that you're aware of that
10 says how many shots were fired by the citizen in
11 their self-defense?

12 A No. Those are -- those are occasionally
13 reported, but usually you don't see a round count.

14 Q Okay.

15 A And in many of the situations, as I've said,
16 the presence of the gun is enough to break off the
17 attack, and the opponent either surrenders or flees.

18 Q And in these incidents that you've described
19 that are on the NRA Website, the 60 to 80 incidents
20 in the State of Colorado between 1959 and the
21 present, did they involve a situation where the
22 citizen was attacked by someone with a gun or was it
23 -- could it have just been someone attacked them with
24 a knife?

25 A There's a wide variety; gun, knife, female

1 attacked by male, or other disparity-of-force
2 element, wild animals, dangerous animals, that
3 sort of thing.

4 Q But other than those statistics, do you
5 know of any others that indicate how many private
6 citizens in the State of Colorado have had to
7 defend themselves against a perpetrator armed with
8 a firearm?

9 A Again, I'm not sure there is an empirical
10 data base. X number of people, if the guy runs
11 away, don't even report it. So that's why I used
12 the term "tip of the iceberg." The NRA figures are
13 at least that many, but certainly not limited to that
14 number of 60 to 80 plus.

15 Q Do you believe all encounters between law
16 enforcement and offenders are the same as
17 encounters between private citizens and -- I don't
18 know if offenders is the correct word, but a
19 perpetrator?

20 A Well, they will never be exactly the same,
21 simply because it's generally different
22 circumstances. The civilian has no duty to be
23 chasing the guy that they put out the BOLO on,
24 B-O-L-O, Be On The Lookout. The citizen will not
25 be making routine traffic stops. The citizen does

1 not respond to armed robbery that occurred to a
2 third party.

3 The criminals are the criminals. Whether
4 they attack you or a Live Oak Police Officer, it's
5 the same guy with the same weapons and the same
6 veracity and the same malice. So that's why I say
7 the criminal -- the armed citizens are concerned
8 about the very same criminals the police exist to
9 protect us all from.

10 Q On that page five of your report under
11 Section III, you refer to -- starting with, "Over
12 the years, high-volume gunfights have indeed been
13 known to occur in which it was imperative for armed
14 citizens to sustain fire to contain or neutralize
15 the threat." And you go on to describe incidents
16 with a watch repairman owner in Los Angeles named
17 Lance Thomas. Do you see that?

18 A Yes, ma'am, and I believe you have the
19 copies of my more-detailed write ups there.

20 Q I do. And you say, "For example, Lance
21 Thomas, a watch repairman in Los Angeles, was over
22 the course of years forced to shot it out multiple
23 times with multiple armed robbers. Thomas won the
24 gunfights only because he kept several loaded guns
25 in his work area and was able to transition to

1 another gun when the first ran dry."

2 A I believe he won one with a single gun. If
3 memory serves, all the rest, he wound up needing
4 more than that.

5 Q Okay.

6 A We have it there if you want to refer to it.

7 Q Okay. Well, let me just ask you this, just
8 to clarify my understanding, though, is it your
9 opinion that Mr. Thomas won the gun fights because
10 he had access to multiple guns?

11 A It's my opinion he would have died in four of
12 them if he didn't.

13 Q Okay. So it was the multiple guns that helped
14 him to win?

15 A In four out of five, absolutely.

16 Q Okay. Are you aware of any provision in
17 House -- Colorado House Bill 1224 that prevents --
18 or prohibits a person from having more than one gun?

19 MR. COLIN: Foundation.

20 THE WITNESS: No, ma'am. But to put that in
21 context, Mr. Thomas owned a small shop that was
22 primarily a Rolex dealership and repair center.
23 Inside his work place, which was secured against
24 outsiders, his side of the bench as it were, the
25 authorized-personnel-only section, if you will, he

1 had the guns staged in holsters mounted to the
2 side of the desk or in drawers where they could
3 quickly be reached.

4 He said later he had one about three feet. It
5 would be impossible, impractical, and in many
6 respects unsafe, for the private citizen to store a
7 loaded gun every three feet in their home.

8 I recently did a concealed-carry training film
9 where, just to make a point, I carried 52 concealed
10 handguns at once. That is not the way normal way
11 people walk around. The great majority of private
12 citizens who carry guns only carry the one; a great
13 many of those do not carry spare ammunition.

14 Most police officers when they're off duty,
15 carry only one gun and often no spare ammunition.
16 So to say that I'm sure you can protect yourself
17 to the same level you could last year, but you have
18 to buy another gun, you have to conceal another
19 gun, be responsible for the safe storage of another
20 gun, strikes me as simply over the top. It's unfair
21 to the citizen. It an unrealistic expectation and
22 also the very definition of arbitrary and
23 capricious.

24 BY MS. MOATS:

25 Q But in this case, he was a store owner and he

1 was able to have multiple guns for the --

2 A Because of that unique scenario and a very
3 similar scenario in the Richmond Jewelry Store that
4 I cited --

5 Q Which we'll get to.

6 A -- that was possible.

7 Q Okay. Did all the guns that Mr. Thomas had
8 during these incidents, did they all hold 15 rounds
9 or less?

10 A I do not recall. Let me take a look at that.

11 MS. MOATS: Okay. Let's go ahead and take a
12 look at this, and we'll mark it as our next
13 exhibit.

14 (Defendant's Composite Exhibit No. 5 was
15 marked for identification.)

16 BY MS. MOATS:

17 Q Mr. Ayooob, I'm going to hand you what's been
18 marked as Deposition Exhibit 5. Does this document
19 look familiar?

20 A It does.

21 Q And can you tell me what it is?

22 A This is the Lance Thomas story as I wrote
23 it in a continuing series called Ayooob Files,
24 F-i-l-e-s, that I've done for many years for
25 American Handgunner Magazine. This one appeared

1 in the March/April 2002 Edition.

2 Q Okay. So I'm going to try to take you
3 through the different incidents.

4 A Sure.

5 Q Because I've read this a couple times and I
6 just want to understand, you know, what types of
7 guns were used and the capacity of each. It looks
8 like, if you look on the first page of this document
9 in the fourth paragraph down, it starts, "August
10 10th, 1989, like so many storekeepers, Thomas feels
11 his watch shop would be a safer place if he had a
12 gun with which to fend off armed robbers. He has
13 acquired a Model .36, a five-shot Smith & Wesson .38
14 Chief Special. He keeps the snubnose revolver where
15 he can reach it easily."

16 And then you go on to say in the next
17 paragraph: Two men enter. One appears to have
18 some sort of weapon and the other pulls what Thomas
19 recognizes as a 9 millimeter semiautomatic pistol.
20 Thomas knows he can just give the man his money and
21 goods, but he also knows that to do so is to trust
22 his life to the whim of a violent man unlawfully
23 wielding a deadly weapon. Instead Thomas chooses to
24 flight -- to fight.

25 And then you say: His hand flashes to the

1 Chief Special and he comes up shooting. The little
2 revolver barks three times, two of his bullets miss,
3 but one smashes into the gunman's face, putting him
4 out of the fight.

5 So with respect to this gunfight -- or with
6 respect to this gunfight, Thomas had -- Mr. Thomas
7 had in August, 1989, am I correct in understanding
8 that the gun he used there was a five-round
9 capacity?

10 A You are.

11 Q Okay. And then turning to the next page of
12 this article, page 77.

13 A Yeah, that is the page where we put it in
14 perspective.

15 Q Okay.

16 A And the quote, column one, paragraph one, I
17 quote, "It is not lost on him that he has expended
18 60 percent of his ammunition to neutralize 50 percent
19 of his antagonists. It occurs to him that a single
20 five-shot revolver might not be enough if there's a
21 next time and that there won't be much opportunity
22 to reload."

23 Q Correct. And you go on there to say right
24 after that: What if he had been caught out of reach
25 of his Smith? Thomas expands his defensive strategy.

1 The .38 is joined by a trio of .357 Magnum revolvers,
2 a Colt Python, a Smith & Wesson Model 19, a Combat
3 Magnum and a Ruger Security 6. He arrays them a few
4 feet apart within the small perimeter of his work
5 space so there will always be one within reach no
6 matter where he's standing."

7 Then on that same page under Professional Hit,
8 it says: November 27th, 1989. This time it's the
9 kind of professional hit that the NYPD Stakeout
10 Squad warned you about.

11 And then if you go down to the next paragraph,
12 it says: It opens hot, fast and ugly. One of the
13 perpetrators opens up on Lance Thomas without warning,
14 firing a semiautomatic pistol, hitting him four times
15 with eight rounds fired. Three of the .25 ACP bullets
16 bite into Thomas' right shoulder, a fourth into his
17 neck. The watchmaker grabs the nearest revolver, the
18 Ruger .357, missing with the first shot, but scoring
19 with the next five.

20 So was Mr. Thomas able to hit one of the
21 suspects in this November, 1989, incident with five
22 shots?

23 A Yes, ma'am, he was. And it follows, "The
24 gunman falls to the floor and so does the Security
25 Six; it has clicked empty."

1 Q Okay. And let me ask you this real quick,
2 is the Security Six you described the same as the
3 Ruger .357?

4 A The Ruger Security Six is most commonly found
5 in the 357 Magnum caliber.

6 Q Okay. And what capacity magazine does the
7 Ruger 357 have?

8 A It doesn't have a magazine. That's a
9 revolver, so it has a cylinder.

10 Q Okay.

11 A And that's a six-shot revolver, hence the
12 name Security Six.

13 Q Okay. So it goes on to say, "The gunman falls
14 to the floor and so does the Security Six; it is
15 clicked empty. Thomas drops it, lunging for the next
16 nearest weapon, the snubnose .38 that had saved him
17 the last time."

18 And what capacity is the snubnose .38?

19 A It doesn't say whether that is a five-shot or
20 a six-shot, which are the two most common formats for
21 that type of gun.

22 Q Okay.

23 A It goes on to say, "Now he engages the second
24 suspect who is shooting at him. Thomas shoots back.
25 That gun, too, runs dry. He hasn't hit his antagonist,

1 but he hasn't been hit either, and the second robber
2 is in no mood to continue the fight. The third inside
3 suspect opens fire on Thomas."

4 And it goes on to say Thomas grabbed a third
5 gun, another .357 Magnum, emptied it into third
6 gunman, and the offender fell. So essentially he has
7 neutralized two of them with gunfire and the third of
8 them, the second in sequence, has fled.

9 Q Okay.

10 A And it has taken him three guns to do that
11 with.

12 Q And is it my -- is my understanding correct
13 that each of these guns had a five- to six-round
14 capacity?

15 A The .357s that were described earlier, the
16 Colt Python, the Smith & Wesson Model 19, and the
17 Ruger Security Six, are all six-shot guns. He has
18 emptied two of those, so that's twelve shots gone.

19 If he used the Five-Shot Chief Special from
20 the previous gunfight for the snubnose .38 -- which
21 it's not mentioned here how many shots. Only that
22 it's emptied dry -- that would be a total of 17
23 shots fired to stop the fight. Had it be another
24 six-shot revolver, it would have been a total of 18.

25 Q Okay. So --

1 A So 15 rounds would not have been enough.

2 Q Right. But each of the guns he used in this
3 case had less than 15 rounds?

4 A That is correct, but it took him three guns
5 to do it and the time in between to drop the first
6 and the second to access the second and the third.

7 Q Okay. On that same page under Charmed Life,
8 it goes on to describe in the second paragraph under
9 Charmed Life, the second full sentence -- or I guess
10 the second full paragraph under Charmed Life,
11 "However, it occurs to the storekeeper that his
12 survival armory might need another firepower
13 upgrade. This time he decides to try semiautomatic
14 pistols. He buys four, all SIGs, that operate the
15 same way. One is the Compact nine-shot P-225 9
16 millimeter. The other three are assorted versions
17 of the P-220 8-shot .45 auto."

18 And then if you turn the page there, under Two
19 Year Break, it looks like December 4th, 1991, "It has
20 been more than two years since the last incident."
21 And then in the third paragraph under Two Year Break,
22 it says, "The perpetrator fires first, pumping a 9
23 millimeter bullet through Thomas' neck, drilling a
24 wound channel that is just a fraction of an inch from
25 being fatal. But now Thomas has reached his nearest

1 pistol, the little P-225, and he is firing back.

2 The watch shop proprietor has been forced into
3 an awkward hold on the gun and he can only fire three
4 rounds, all straight into the chest of his opponent,
5 before his imperfect grasp causes the usually
6 reliable SIG 9 millimeter to jam. Without missing a
7 beat, he drops it and grabs one of its big brothers,
8 which he fires into the opponent five more times until
9 the armed robber falls and stops trying to commit
10 murder."

11 So is it -- and is it fair to say in this
12 incident, Mr. Thomas fired a total of eight shots --

13 A Yes, ma'am.

14 Q -- and was to take the offender down?

15 A That would be my count as well.

16 Q Okay. And both of the guns he used in that
17 particular incident had less than 15 rounds?

18 A Yes. Both of them were single-stack magazine
19 pistols. As I recall, each has a capacity of eight
20 in the magazine, plus one in the chamber.

21 Q Okay. On that same page, there's a section
22 entitled, Ever Vigilant.

23 A Vigilant, yeah.

24 Q Vigilant. I'm sorry.

25 A That's okay.

1 Q I've been reading too much. The incident is
2 February 20th, 1992, and the second full paragraph
3 begins, "Two armed perpetrators enter the store. As
4 soon as Thomas sees the automatic pistol in one of
5 their hands, he reflexes to his nearest pistol, one
6 of the P-220s. This perpetrator goes down fast, hit
7 with what Author Kirchner describes as most of a
8 gunload of .45 ACP ammunition.

9 Grabbing another P-220, Thomas engages the
10 second armed robbery suspect and shoots him four
11 times. The suspect falls. The danger is over."

12 So in that incident, he was also able take
13 the suspects down with, it looks like, four shots?

14 MR. COLIN: Foundation.

15 THE WITNESS: Well, that's -- that's not quite
16 correct, ma'am.

17 BY MS. MOATS:

18 Q Okay.

19 A There's two perpetrators.

20 Q Right.

21 A One of them goes down after being shot four
22 times. The other goes down hit with most of a
23 gunload, which would mean more than -- certainly
24 more than four shots in a nine-shot pistol.

25 Q Okay. With respect to this February 1992

1 incident, were both of the -- or was the firearm
2 he used -- were the firearms he used in that
3 incident, though, firearms with 15 rounds or
4 less?

5 A No, ma'am. They are both SIG P-220s with
6 single-stack magazines, either seven plus one or
7 eight plus one, depending of the generation of
8 manufacturer.

9 Q So they were firearms with eight shots
10 total?

11 A Eight to nine, depending on which type of
12 magazine he had in the guns.

13 Q Okay. So in all four of the incidents
14 discussed where Mr. Thomas was robbed, he used guns
15 with a capacity of 15 rounds or less?

16 A That is correct.

17 Q Okay. And in all four of the incidents
18 discussed where Mr. Thomas was robbed, he was able
19 to change guns and fire back?

20 A There was one where he was able to stop the
21 whole thing with just the one gun, the very first
22 one. All the others, the flip side of your comment,
23 which is correct, is that if he had not had another
24 gun staged, loaded, every three feet, he almost
25 certainly would have been killed when he ran out of

1 ammunition.

2 Q Okay. Now, looking back at your expert
3 report, which I believe is marked as Exhibit 3.

4 A Can you repeat that please, miss?

5 Q Oh, sure. Looking back at your expert
6 report marked Exhibit 3 --

7 A Yes, ma'am.

8 Q -- on page 5.

9 A Yes, ma'am.

10 Q The last paragraph under Section III,
11 Perspective on Shootouts.

12 A Yes, ma'am.

13 Q You say: In another well-known case, the
14 Beverly Hills Jewelry Store robbery in Richmond,
15 Virginia, the store owners shot it out with
16 multiple armed members of the Dixie Mafia. They
17 prevailed only because -- or, yeah -- they
18 prevailed only because over a dozen loaded guns
19 had been staged every three feet behind the
20 counters, and one owner was able to move between
21 guns, transitioning to a fresh weapon when the
22 last went dry.

23 A Yes, ma'am.

24 (Defendant's Composite Exhibit No. 6 was
25 marked for identification.)

1 BY MS. MOATS:

2 Q Mr. Ayooob, I'm just going to hand you what's
3 been marked as Deposition Exhibit 6. And I've handed
4 you what I found online called or entitled, Lead and
5 Diamonds, the Richmond Jewelry Store shoot out, Blast
6 from the Past. It looks like it's published in the
7 American Handgunner Magazine. It's authored by you.
8 It says -- and it's dated May to June 2003. Does
9 this document look familiar?

10 A Yes, ma'am. It's the article I wrote at that
11 time referencing the point we've just discussed in my
12 report.

13 Q Okay. So it references the Beverly Hills
14 Jewelry Store robbery?

15 A It does.

16 Q And this incident occurred in 1994,
17 correct?

18 A Let me check, December 2nd, 1994.

19 Q Okay. And was this incident a mafia hit?

20 A It was Dixie Mafia. It's essentially a
21 loose connection of, as I described it here,
22 "... a loose-knit gang of all white robbers,
23 killers and dope-runners known in the south as
24 the Dixie Mafia."

25 Q Okay. And then looking on this first page

1 of what's been marked as Deposition Exhibit 6, under
2 Preparation, in the second full paragraph, I think
3 it's about the third sentence in, it says, "Baker had
4 purchased eleven Rossi .38 Specials -- " Do you see
5 where that is?

6 A I do.

7 Q Okay. " -- five-shot snubbies and laid
8 them out at ten foot intervals behind the
9 counters, invisible to the public, but readily
10 accessible to staff." And who is Baker again?

11 A The Baker brothers were the owners of the
12 jewelry store.

13 Q And the Rossi --

14 A Gary Baker, I think, was the primary owner.
15 His brother, who took part in the shootout, I
16 believe, was a part owner.

17 Q Okay. And the Rossi .38 Specials that you
18 described Baker using to defend himself, what
19 capacity of guns are those?

20 A Those are -- in this case they were five-shot
21 .38 Special Revolvers.

22 Q And your article goes on to state that -- I
23 think it's in the second to last sentence, "In
24 addition, he secreted his own Remington 870 12 gauge
25 pump gun where he could reach it near the door to his

1 office."

2 A Yes, ma'am.

3 Q And what capacity was this pump gun?

4 A I would have to check and see if it was
5 mentioned here. The standard capacity is four in
6 the magazine and one in the chamber. Depending on
7 how much you want to customize the gun, you can get
8 that up to about ten rounds.

9 But it's a tubular magazine, so it's -- the
10 magazine is running parallel to the barrel
11 underneath it and it makes the gun somewhat more
12 unyielding.

13 Q Okay. So in reading this -- in reading the
14 types of guns that Mr. Baker had, am I correct in
15 that in this case the owner was able to defend
16 himself without the use of any high-capacity
17 firearms?

18 A They had to resort to eleven low-capacity
19 firearms.

20 Q Okay. Fair enough. I think turning --
21 looking back again at your expert report.

22 A Yes, ma'am. What page?

23 Q The very last page, page 6.

24 A Okay. Yes, ma'am.

25 Q You state -- well, wait. Let me -- okay.

1 You state in the -- I think it's the second
2 paragraph there, "However, a higher capacity
3 firearm, a Springfield XDM 9 millimeter with 19
4 rounds in the magazine and a 20th in the firing
5 chamber, or some of the 30-shot rifles available
6 today would give such a citizen, especially one
7 with a disability, more of a fighting chance to
8 survive such violent, armed criminal assaults."

9 Are the two guns you describe here, the
10 Springfield XDM 9 millimeter or the 30-shot rifles,
11 do you consider those high-capacity firearms?

12 A In the Vietnam years, the 30-shot magazine
13 for the AR 15 was considered a high-capacity
14 magazine, the reason being it had originally been
15 designed around a 20-shot magazine.

16 Q Uh-huh.

17 A Over the years the 30-shot magazine became
18 pretty much the standard and today would be
19 considered standard capacity for that type of
20 firearm. The 19-shot XDM, certainly it's a higher
21 capacity than most 9 millimeter semiautomatic
22 pistols.

23 As I said, the most popular today is the
24 18-shot Glock 17, but that gun is part of a current
25 generation of high-capacity pistols. Currently the

1 modern -- the most modern police-type pistols, the
2 Glock, the Smith & Wesson military and police, the
3 Ruger SR 9, would all have at least 18 rounds
4 capacity. The XDM comes standard with 20 in a
5 standard-sized gun.

6 Q Okay. So do you believe that any citizen,
7 whether disabled or not, requires a firearm that
8 holds greater than 15 rounds for the purposes of
9 self-defense?

10 A I never said they require it. I said there
11 are certain circumstances in which it can make a
12 critical difference. And I believe it should be
13 their choice, and I see no good reason why that
14 choice should be taken away from them.

15 Q And when you say that they're high-capacity
16 firearms that are 18 rounds, do you believe there's
17 a critical difference between a firearm with 15 --
18 that's limited to 15 rounds versus a firearm like
19 you've described with 18 rounds in terms of
20 defending yourself?

21 A Well, for Lance Thomas, who ended one of
22 his gunfights on the 19th shot and would have died
23 if he had ran out of ammunition earlier, it
24 certainly would have been a critical difference.
25 He was able to do what the person in the wheelchair

1 cannot, what the able-bodied or handicapped person
2 could not, and that was have an array of guns laying
3 around within easy reach.

4 Now, that's simply not an option for the
5 Colorado citizen, or any citizen, who is licensed
6 to carry concealed. It's not an option for, let's
7 say, a retired police officer. And when you're in
8 the home, as opposed to a secured employees-only
9 area of the workplace, anytime someone comes
10 unexpectedly with children, what are you going to
11 do if you have a loaded handgun every three to ten
12 feet staged for immediate quick access; and if the
13 owner is in a wheelchair, for him or her to reach
14 it, that means they're literally staged at the
15 children's level.

16 It would strike me as monumentally unsafe to
17 do that. To say that's the answer because someone
18 in the legislature decided we don't think you're
19 responsible enough to have the 18 rounds, or you're
20 not anymore. We're going to take it down to 15 and
21 we're going to do this because once in 2011 -- or
22 once in 2012 and once in 1999, three evil people
23 murdered innocent people. It kind of says to your
24 whole citizenry: Gee, we're not too sure about your
25 integrity, so we'll neuter you too.

1 And this in the hopes that you'll limit the
2 next mass-murdering monster to 15 victims instead of
3 20. There are better ways to interdict the next
4 mass-murdering monster.

5 Q Okay. And we'll get around -- because I
6 think you expressed some of those opinions in your
7 rebuttal report.

8 A Sure.

9 Q While you say that these types of higher
10 capacity firearms would give a citizen more of a
11 fighting chance to survive, isn't it possible that
12 they can still, though, however defend themselves
13 with 15 rounds or less?

14 A Well --

15 MR. COLIN: Form, speculation, foundation.

16 THE WITNESS: Well, what I actually said was
17 more of a fighting chance to survive such violent,
18 armed criminal assaults as the two high volume
19 gunfights I had just described.

20 Yes, it's -- you know, throughout the day,
21 I've been saying common sense and logic.
22 Hopefully everybody in that jury pool has common
23 sense. Hopefully every citizen has common sense.

24 What we're looking at here as it applies to
25 this, as it applies to anyone like me going into

1 court, is my definition of tactics is common
2 sense applied with a specific knowledge of the
3 issues actually involved. The subtleties of those
4 fine points of those tackle issues are what I, or
5 any expert witness in any discipline, brings to
6 the table.

7 What I'm saying here is certainly not every
8 incident will require more than 15 shots. If it
9 was, every police officer would probably carry
10 and find a way to carry a 30-shot pistol or might,
11 like in some countries, strap a submachine gun
12 onto his chest as he walks around performing his
13 duties.

14 What we're looking at here are particularly
15 dangerous high-risk situations. Some people say:
16 Oh, that won't happen. This history shows it can
17 happen. It's not about the odds, as I said
18 earlier. It's about unacceptably catastrophic
19 outcomes.

20 BY MS. MOATS:

21 Q Okay. So when you say -- in your report, when
22 you say more of a fighting chance to survive such
23 violent, armed criminal assaults, are you referring
24 to the mafia like assaults you've described on page
25 5?

1 A Correct, ma'am. That's the paragraph that
2 follows my citation of the two incidents we've just
3 been discussing.

4 Q And would you agree that the average citizen
5 does not encounter such mafia-like assaults?

6 A Yes, of course.

7 MR. COLIN: Speculation, foundation.

8 BY MS. MOATS:

9 Q I'm sorry. Go ahead.

10 A Yes, of course. The average watch
11 shop owner or jewelry store owner doesn't either;
12 but these did, and without being able to put out a
13 high degree of firepower by whatever means they
14 could, they clearly would have died.

15 The mechanism they had, the multiple loaded
16 guns staged within easy reach, not on their persons,
17 would not be reasonable, accessible or even safe for
18 the private citizen in the home or the individual
19 with the concealed carry permit walking out and
20 about.

21 Q And you go on under your Conclusion on page 6
22 Of your report, which is Section IV, "It is clear to
23 a strong degree of scientific certainty that the
24 magazine capacity limitation in Colorado will have a
25 harmful impact on the disabled/physically challenged

1 individual and on the elderly as well."

2 A Correct.

3 Q And just to confirm again, when you say
4 elderly, are you, again, limiting that to elderly
5 with limited range of movement in their hands,
6 wrists and fingers?

7 A Sure. I know pistol champions who are
8 Social Security age that can out shoot most young
9 guys. When I say the elderly, we're talking those
10 with the impairments, if you will, that are
11 associated with advancing age.

12 Q Okay. And your conclusion here that it's
13 clear to a strong degree of scientific certainty,
14 that's based on -- again, on your memory of
15 observing people with these types of disabilities
16 during your training sessions?

17 A Well, it's based on --

18 MR. COLIN: Form, foundation.

19 THE WITNESS: It's based on more than that.

20 As we've discussed, it's also the institutional
21 knowledge that I've tapped into with a great many
22 other instructors.

23 It's also something that we can easily
24 quantify and perhaps should quantify as
25 demonstrative evidence at trial using electronic

1 timers to demonstrate how much faster it is to be
2 able to sustain fire in an emergency than to
3 reload, even if you're totally able-bodied, and
4 compare that to the very difficult gyrations a
5 physically-handicapped person would have to go
6 through to reload the low-capacity gun to continue
7 the defense of themselves and their family.

8 BY MS. MOATS:

9 Q Okay. But to date, when you prepared this
10 report, you didn't do any of those types of studies
11 or any of that type of creation of a demonstrative --

12 A No. I have not yet been asked to do that. If
13 I am, I will give you my word that I'll request the
14 plaintiff's counsel to get that to you in a timely
15 fashion.

16 Q And in terms of institutionalized knowledge,
17 you haven't cited necessarily anything specific about
18 where this institutionalized knowledge came from when
19 you drafted this report, correct?

20 A Well, ma'am, every year I go to at least one
21 40-hour seminar focusing on use of force and
22 specifically in my area, use of firearms. I'm
23 constantly dealing with cases like this. I'm
24 constantly interacting with other instructors, and
25 occasionally involved in training other instructors.

1 Like you in your profession, we cross pollinate with
2 one another, share knowledge with one another.

3 And insofar as quantifying statistics and
4 studies, again, going back to the correlation of
5 expert knowledge with common sense, it would be no
6 trick at all to do demonstrations that would show
7 speed of reloading of, let's say, a competitive
8 shooter standing on the firing line waiting for the
9 start signal versus the same person trapped in a
10 wheelchair with arms, which would greatly mitigate
11 arm movement, coming back for the magazine, et
12 cetera, et cetera.

13 We could -- I think should probably show
14 something graphic to show what we're talking about
15 with the breach of the fingers to the different
16 parts of the gun to manipulate it. So that would be
17 the element of scientific certainty, combined with
18 the simple logic that if you run out of ammunition at
19 shot number sixteen, you can either, a quarter second
20 later, shoot your opponent and stop the fight with the
21 seventeenth shot you're allowed to have in the gun, or
22 you can wait two seconds at best to get your gun
23 reloaded before you can continue to defend yourself.

24 Q Okay. But when you say that those -- that type
25 of demonstrative exhibits, if you will, can show the

1 degree of scientific certainty, I'm just trying to
2 verify that you -- at this point, though, you haven't
3 conducted any of those types of demonstrative --

4 A Not specifically for this, no.

5 Q Okay. And when you say you're constantly
6 training and every year you go to a 40-hour seminar,
7 none of that -- it's not ever specifically focused
8 on people with disabilities, is it?

9 A None has ever been focused strictly on that.
10 Often classes that I have attended, were classes I
11 have even taught, and touched, as I've said, on the,
12 What I would call, the wounded-officer return fire.

13 What do you do when the bullet or the blow of
14 a knife wound has knocked you down on your back or
15 on your butt or on your face, one of your arms is
16 gone and you've only got one arm left to gun fight
17 with? Those things apply directly to the
18 circumstances of the physically handicapped private
19 citizen.

20 The Wounded Warrior that returned to his
21 country and is now attacked by a criminal in
22 civilian life, and can apply also to anyone, police
23 or civilian, who sustains a crippling injury or a
24 disabling injury in the course of the given fight,
25 even if a moment before they had been fully

1 able-bodied.

2 Q Okay. So what you're saying is the
3 training you've taken has touched on training
4 disabled people?

5 A Yeah. Essentially if -- I've been teaching
6 people how to reload a gun one handed since 1973, I
7 think. It will be 40 years now. Whether that's
8 happened because you didn't have this arm to start
9 with or because a bullet from the opponent has
10 shattered that arm, the body mechanics are the
11 same.

12 Having taught that for many years, we can
13 quantify that it takes profoundly longer to do, for
14 example, to perform a reload one handed than it does
15 two handed. There are many more movements that only
16 one hand can accomplish since the other can't help
17 and it takes longer to perform the sequence of the
18 movements.

19 Q Okay. Would it be a fair statement, though,
20 to say that you don't constantly train people with
21 disabilities on how to use a gun or reload a
22 magazine and --

23 A Well, it's not my full-time job, no.

24 Q Okay.

25 A Yeah, most of the people I teach are

1 able-bodied.

2 Q Okay. And like we discussed earlier about,
3 of all the people that you've trained in the last
4 30 years, about five to ten percent are disabled?

5 MR. COLIN: Asked and answered, foundation.

6 THE WITNESS: Well, yeah, depending on how
7 you define -- I believe we've previously
8 discussed levels of disability, profound
9 versus --

10 BY MS. MOATS:

11 Q Technical.

12 A Yeah.

13 Q Okay. So what you said is that about -- of
14 all the people that you've trained in the last 30
15 years, about five percent have been profoundly
16 disabled and about ten percent have been
17 technically, what you term technically --

18 A No. I said less five or well under five
19 percent.

20 MR. COLIN: Asked and answered, foundation.

21 Go ahead.

22 THE WITNESS: I said well under five percent
23 would have been profoundly disabled.

24 BY MS. MOATS:

25 Q Okay.

1 A As many as ten percent disabled to some degree
2 if you count mobility as it relates to rapid
3 movement or extreme flexion of the body, such as
4 taking cover behind an automobile engine block or
5 something like that.

6 Q Okay. And you can't say for a fact that --
7 would you agree you can't say for a fact that 15
8 rounds is not sufficient for a disabled person to
9 protect themselves?

10 MR. COLIN: Foundation.

11 THE WITNESS: No, ma'am. What I'm saying is
12 none of us knows, able-bodied or handicapped,
13 whether it will take 15 or not or more; if it does
14 it take more, obviously it's better to have it than
15 not have it.

16 Folks, where are we piling the ones that aren't
17 exhibits?

18 MS. MOATS: Right next to -- I apologize. Right
19 here.

20 THE WITNESS: They are starting to build up.

21 MS. MOATS: Yeah. We can pile the exhibits
22 right next to you. I appreciate that, and I can
23 organize them when we're done here, so you don't
24 have to do that.

25 THE WITNESS: Okay. What's up next?

1 (Defendant's Composite Exhibit 7 was marked
2 for identification.)

3 BY MS. MOATS:

4 Q Next is what's been marked as Deposition
5 Exhibit 7.

6 A Okay.

7 Q This is a copy of the expert rebuttal report
8 that we received. It's apparently drafted by you,
9 dated September 10th, 2013.

10 A Yes, ma'am.

11 Q Is this the rebuttal report you drafted?

12 A It appears to be.

13 Q Okay. Did you receive any instruction on what
14 to draft as part of this rebuttal report?

15 A No, ma'am. They sent me his report and said
16 write a rebuttal if you can.

17 Q Okay. By "his report," who are you referring
18 to?

19 A I'm sorry. Dr. Zax's report.

20 Q Okay. Were you asked to respond to any or
21 to rebut anything else?

22 A Not that I recall.

23 Q Okay. Let's see. On page 2, if you can turn
24 to page 2 of this report.

25 A Yes, ma'am.

1 Q And if you go to about the sixth paragraph
2 down starting with, "In at same vein..."

3 A Okay.

4 Q You say, "... only a tiny fraction of
5 law-abiding armed citizens ever have to actually
6 point their guns at other human beings, let alone
7 shoot them. But rare circumstances due occur when
8 they must and in those instances, running out of
9 ammunition will result in consequences just as
10 violent and unforgiving to them as police
11 officers."

12 A "... as to police officers," yes.

13 Q Okay. So I think we've talked about this
14 today, but you acknowledge that it's a rare
15 circumstance when a private citizen has to use a gun
16 in self-defense, correct?

17 MR. COLIN: Asked and answered.

18 THE WITNESS: Yes, ma'am.

19 MS. MOATS: Okay.

20 (Defendant's Composite Exhibit No. 8 was
21 marked for identification.)

22 THE WITNESS: Are we done with Exhibit 7,
23 Ms. Moats?

24 MS. MOATS: No. I'm going to come back to
25 that. We are not done with Exhibit 7. I will

1 come back to that here in just a minute.

2 BY MS. MOATS:

3 Q I just want you to take a look at Deposition
4 Exhibit Number 8.

5 A Okay.

6 Q This is an article I found on the internet
7 that you had written for Backwoods Home Magazine.

8 A Yes, ma'am.

9 Q It's entitled, Answering Some Well Asked
10 Questions About Personal Defense.

11 A Yep.

12 Q Dated January/February of 2006.

13 A Yes, ma'am.

14 Q Does this document look familiar -- or I
15 should say, does this article look familiar?

16 A Yes, it does.

17 Q Okay. And you're still an editor for
18 Backwoods Home Magazine?

19 A A firearms' editor.

20 Q A firearms' editor. I apologize. And how
21 long have you been the firearms' editor for Back
22 Home -- Backwoods Home Magazine?

23 A Since the late 1990s. I don't recall the
24 exact year. It might have been '96; it might have
25 been later.

1 Q And if you could just look -- I think it's
2 on the first page, the last paragraph.

3 A Yes, ma'am.

4 Q You say, "How many cartridges? I personally
5 like a high-capacity semiautomatic for home defense,
6 because when you grab a gun in the middle of the
7 night, there isn't always time to grab spar ammo.
8 However, the fact is that the overwhelming majority
9 of home defense applications of a gun are over in
10 less than five or six shots. The revolver has a good
11 history in defending home and hearth."

12 Do you see that?

13 A Yes, ma'am.

14 Q When you say the majority of home defense
15 applications of a gun are over in less than five to
16 six shots, where did you obtain this data?

17 A Well, it's well known in the field that the
18 vast majority of these things don't end with any
19 shots at all.

20 Q So is it your opinion that self-defense can
21 be accomplished in five to six shots?

22 A Well, as we've said throughout the day, it
23 can be depending on the circumstances. Unfortunately
24 we have limited control over the circumstances, the
25 number of intruders there might be, the level of

1 aggression and commitment they might have.

2 It might be a 14 year old junkie doing his
3 first burglary and he loses sphincter control and
4 runs away when he sees your gun. It might be the
5 committed stocker who has decided if he can't have
6 you, nobody will and he's bent to take you or die,
7 and the price of poker just went up.

8 Q Okay. But here you say the overwhelming
9 majority of home defense applications. So would
10 you agree that in the overwhelming majority of
11 cases, five to six shots is sufficient?

12 A Or less --

13 Q Or less.

14 A -- or no shots at all. Again, as we've said
15 throughout the day, it's not about the odds. It's
16 about the stakes.

17 Q Looking back, and I'm sorry to keep you
18 switching back and forth here between documents.

19 A That's okay. Where are we?

20 Q We're just back on Exhibit 7, which is your
21 rebuttal report.

22 A Okay. What page?

23 Q Page 2, in the second to last paragraph on
24 page 2.

25 A Yes, ma'am.

1 Q The last two sentences you indicate, "The
2 uniformed police officer in Colorado or elsewhere
3 normally carries two spare magazines on the duty
4 belt. It is a rare citizen with a carry permit who
5 carries that much ammunition. Often they will only
6 have what is in the gun."

7 Are you aware of any studies on how often a
8 private citizen with a carry permit carries more
9 than one magazine?

10 A There is no empirical data base. But I have
11 from that is the experience of talking with a great
12 many of them who've been coming to me for training
13 since the year of 1981. It would be kind of like me
14 asking you -- if I asked you when you were in
15 private practice, what's the typical profile of
16 your client. You probably don't keep actuarial
17 tables on how long they live after the verdict. You
18 probably don't keep, you know, their credit rating on
19 file once all the business is done.

20 But you would have a pretty good profile of
21 who came to you as clients. That essentially is
22 where I am with this. The great majority of private
23 citizens will carry two spare magazines when they're
24 with me on the range, because I've told them they'll
25 need them. A significant number have to buy the

1 double magazine pumps to attend the class, because
2 normally they just carry the holstered gun.

3 Q Okay. So is it possible for a private
4 citizen, though, to -- with a carry permit to carry
5 more than one magazine?

6 A Yes.

7 MR. COLIN: Form and foundation.

8 THE WITNESS: Yes, ma'am, it is in every
9 jurisdiction I know of.

10 BY MS. MOATS:

11 Q Okay. If you could turn to page 3 of your
12 report.

13 A Page 3. I'm with you. What paragraph?

14 Q The second full paragraph there.

15 A Yes, ma'am.

16 Q It says, "An officer who is ambushed or
17 under fire will have been taught to exit the kill
18 zone, falling back to a more strategic cover
19 position. A householder cornered by home invaders
20 or a storekeeper face-to-face with armed aggressors
21 across the counter of his shop has nowhere to run
22 with any realistic hope of survival."

23 So just to confirm, when you say "a
24 storekeeper face-to-face with armed aggressors,"
25 in your initial report that we just reviewed, you

1 did describe various robbery incidents to businesses
2 wherein the shop owners were confronted by armed
3 aggressors and were able to successfully defend
4 themselves with guns that had the capacity of 15
5 rounds or less, correct?

6 A Correct.

7 Q Okay. Would you agree that if there's a
8 home invasion, a homeowner is familiar enough
9 with their home in most cases to find a place to
10 flee or seek a position of safety?

11 A Well, actually they have a finite space in
12 which to do so. If there are children, elderly
13 grandparents, others in the home who need to be
14 protected and who you feel a responsibility to
15 protect, fleeing them would be essentially
16 abandoning them. Most people, I do not think,
17 would consider that a viable alternative.

18 Second, if you're facing the intruder, none
19 of us can back away from him faster than he can
20 rush forward toward us. And it would be awfully
21 foolish to turn your back to the preverbal
22 upraised knife or attempt to out run a bullet.

23 The police officer responding to the
24 situation comes in from outside. He has his
25 vehicle with the heavy engine block for cover. He

1 has instant communications at his fingertips and
2 heavy weapons. He can, if he comes under fire, he
3 has the option of putting the police cruiser in
4 reverse and quickly exiting the scene.

5 The private citizen generally does not know
6 the attack is imminent until it is underway, and by
7 that time often the offender is too close for escape
8 to be possible.

9 Q With respect to the training that you teach
10 through the Massad Ayoob Group, does any of that
11 training cover the situations of needing to fall
12 back to a cover position in the event of a
13 self-defense situation?

14 A Very strongly. What we recommend is a
15 holistic approach of good locks, solid doors, an
16 alarm system, enough early warning that you can
17 ensconce, e-n-s-c-o-n-c-e; that is, to get to a
18 position of cover, secure your family behind you
19 or behind some solid cover and be in a position
20 where you can command lanes of access and egress
21 and interdict any violent intruder before they reach
22 you, your children, the bed-ridden grandmother, to
23 get on the line immediately with the police and to
24 stay on the line with 911 and coordinate through
25 them.

1 With that said, there is the occasional home
2 invasion that begins with, you know, a member of
3 the family not expecting trouble and answering the
4 unexpected knock on the door, and as soon as they
5 open the door, the wolf is already in the hen house.

6 Q Okay. But there are some household -- there
7 are some homeowners that would know, because of
8 training and training with their firearm that would
9 know how to flee to a position of safety?

10 MR. COLIN: Foundation, speculation.

11 THE WITNESS: Flee to a position of safety
12 would cover a lot of ground. I certainly would
13 not expect someone to run out the back door of
14 their own home into what might be biting,
15 freezing cold if they're not dressed or total
16 absence of communication, and they're not --
17 they're totally unaware of who might be outside,
18 whether there's another intruder at the back door
19 outside already.

20 None of us could ever morally ask, and I would
21 hope the Colorado Attorney General's Office would
22 never ask its citizens to advocate that children --
23 run away from their children if there were home
24 invaders and throw the baby from sleigh to placate
25 the pursuing wolf.

1 BY MS. MOATS:

2 Q Okay. On page 4 of your report in the second
3 paragraph.

4 A Yes, ma'am.

5 Q You state, "Numerous studies have confirmed
6 the huge majority of armed citizens, DGUs, Defensive
7 Gun Usages, have ended without death. Some of that
8 work has been done -- " well, we'll just stop there.

9 When you say "numerous studies," what studies
10 are you referring to?

11 A There are studies done, as noted here, by
12 Professor Kleck, the plaintiff's expert, in the
13 statistical area. Similar studies have been done by
14 Professor John Lott, L-o-t-t --

15 (Proceedings interrupted.)

16 THE WITNESS: And I am sorry. I forgot to
17 turn my phone off when we went out for lunch.

18 MS. MOATS: That's okay.

19 THE WITNESS: I will get that later. I
20 apologize to all.

21 There was a study done, I want to say, in the
22 1970s on this topic by the California Attorney
23 General's Office. I have seen it, but I do not
24 have a copy I can put my hands on. There is
25 considerable work, however, in the area. And as

1 I said in my report, I am deferring on that to
2 Professor Kleck.

3 BY MS. MOATS:

4 Q Okay. Did you review those studies done by
5 Professional Kleck or Professor Lott prior to
6 drafting your report?

7 A I did not for the specific purpose of
8 drafting the report. I had read them when they
9 came out and I was familiar with them.

10 Q Okay. And when were these studies done?

11 A The California AG study, I want to say,
12 goes back to the 1970s. Kleck's work, at least to
13 the 1990s. And Dr. Lott's work, as well, I believe
14 goes back to the 1990s.

15 Q Okay. When you say "defensive gun usage,"
16 do you mean a private citizen's use of a gun in
17 self-defense?

18 A Yes, ma'am.

19 Q Okay.

20 A As opposed to law enforcement, yes.

21 Q Do these studies address -- if you know, do
22 these studies address what capacity of firearms
23 were used in defensive gun situations that ended
24 without death?

25 A I do not believe that empirical data exists.

1 Q Okay. Looking at page 4 of your report in
2 the second to last paragraph.

3 A Yes, ma'am.

4 Q The second to last sentence of that paragraph
5 says, "We will never know how many times the citizen
6 pointing a long-magazine AR15, Ruger Mini-14, or
7 semiautomatic AK47 look-alike rifle has deterred a
8 criminal from continuing his life-threatening
9 behavior without a shot being fired,"

10 Do you see that?

11 A I do.

12 Q Would you agree that it's possible to have
13 these weapons with a magazine capacity of 15 rounds
14 and still deter -- deter criminals?

15 MR. COLIN: Speculation.

16 THE WITNESS: Yes, of course, ma'am. I
17 have seen them deterred by a snubnose .38
18 revolver.

19 BY MS. MOATS:

20 Q Okay. So it doesn't -- so I guess I'm just
21 trying to understand, your opinion is it doesn't
22 really matter what capacity of firearm, the fact
23 that someone has one may be enough to deter a
24 criminal?

25 A Well, as always through this, the operative

1 term is "may be." Again, we're not looking at
2 statistics. We're looking at stakes. Taken in
3 context, the comment that you just quoted, stems
4 from my reference to Dr. Zax's source, Josh
5 Sugarmann, two n's I believe.

6 Basically, Mr. Sugarmann's contention to
7 his fellow gun control advocates was that the
8 long-magazine rifles looked scary and a clever
9 public advertising campaign would make the general
10 public associate them with machine guns, might
11 result in more sympathy for the gun prohibition
12 movement.

13 And my comment here is, well, if the media
14 has made these guns so scary and so intimidating, it
15 can't just work in one direction when you're pointing
16 it at the bad guy, to whatever extent they're
17 intimidating, it should intimidate them as well. I
18 don't feel it can be disregarded; that said, I do
19 not feel it is a pivotal issue.

20 Q Okay. Turning to page 5 of your report.

21 A Yes, ma'am.

22 Q Let's see. You quote from Dr. Zax's report in
23 the second full paragraph.

24 A Just a moment, ma'am.

25 Q Oh, sorry.

1 A Second full paragraph, "Dr. Zax admits in his
2 report...?"

3 Q Yes.

4 A Okay.

5 Q You quote him, Dr. Zax, stating, "Mass
6 shootings are relatively rare. However, the social
7 costs that they impose is extensive. Apart from the
8 numerous victims, their families, friends and
9 communities experience extensive and long-lasting
10 trauma, even now, a Google search for 'Columbine'
11 yields 6,890,000 results. Eight of the first twelve
12 results are about the massacre which took place at
13 Columbine High School in Littleton, Colorado, 14
14 years ago. The 15 deaths there have had a much
15 greater hold on the public conscientious than do
16 the 15 most recent deaths in Colorado from
17 motor-vehicle accidents."

18 Then you go on to write in the next paragraph,
19 "The plaintiffs might well have written defensive gun
20 usages are relatively rare. However, the social
21 value that they bring is extensive. Apart from the
22 numerous victims, their families, friends and
23 communities saved from extensive and long-lasting
24 trauma, even now, a Goggle search for 'Columbine'
25 yields 6,890,000 results, eight of the first twelve

1 results are about the massacre which took place at
2 Columbine High School in Littleton, Colorado, 14
3 years ago."

4 And you state, "The 15 deaths there have
5 much greater hold on the public consciousness than
6 do any of the much more than 15 people who have
7 been spared from death or horrific trauma by the
8 judicious use of defensive firearms in Colorado over
9 the years."

10 How does Dr. Zax's opinion regarding -- or
11 the part I just cited, Dr. Zax's opinion regarding
12 mass shootings and the impact on society comparable
13 to what you were saying plaintiffs might have -- might
14 as well have written?

15 A Ma'am, I'm sorry. I did not quite hear your
16 question.

17 Q That's okay. How is -- so you basically,
18 you cite what Dr. Zax says regarding mass
19 shootings.

20 A Right.

21 Q And then you say the plaintiffs might have
22 well -- might as well have written. So I'm just
23 trying to understand how what -- what you wrote is
24 why -- how you're contrasting the two.

25 A Sure. The context is on the second line of

1 the paragraph that began with, "Dr. Zax speaks to
2 the social cost of mass shootings."

3 What I speak to is in the following
4 paragraph, the social benefit of lives that have
5 been saved from citizens of Colorado and, of
6 course, elsewhere, have been able to protect
7 themselves and their families from people like
8 the monsters Harris and Kleblod, K-l-e-b-l-o-d,
9 who murdered the 13 children -- or the 13 people
10 in Columbine High School.

11 Q Okay. And when you -- at the end when you
12 conclude, you say, "... judicious use of defensive
13 firearms."

14 A Yes, ma'am.

15 Q What do you mean by "judicious use of a
16 firearm"?

17 A The proper and lawful use. In this case, in
18 defense of self or others.

19 Q Do you know of any statistics of how many
20 people in Colorado have had their lives saved by the
21 use of a firearm?

22 A As I've said, there's no empirical data base
23 and not all of them are recorded. I would repeat my
24 offer to get you the link to the NRA Website that
25 has 60 to 80 some documented cases just in the State

1 of Colorado.

2 Q And is that what you based this opinion on
3 where you say the 15 deaths there have a much
4 greater hold on the public consciousness than do
5 any of the much more than 15 people -- when you say,
6 "... more than 15 people have been spared from death
7 or horrific trauma by the judicious of defensive
8 firearms in Colorado over the years," where do you
9 get the statistics of more than 15 people?

10 MR. COLIN: Vague, compound.

11 Go ahead.

12 THE WITNESS: Okay. Well, first I didn't
13 use that out of the NRA link. I give you the
14 NRA link as a supplement. Basically history
15 shows us how commonly these things happen.

16 I don't know if you've read Dr. Kleck's report
17 -- or Professor Kleck's report, but given the huge
18 number of these incidents that occur in the United
19 States, if you assign just based on population,
20 the proportion is going to be a huge number in
21 Colorado, which will far exceed these two
22 black-swan events.

23 And I also couldn't help but notice that
24 your expert's count of the victims included the
25 two perpetrators who died by their own hands.

1 BY MS. MOATS:

2 Q So just to be sure, that you don't know for a
3 fact that more than 15 people in Colorado have been
4 spared from death or the horrific trauma by the
5 judicious use of defensive firearms?

6 A Well, I would respectfully disagree with that.
7 I think the NRA web page alone will give you more
8 than that many documented cases.

9 Q Okay. And that -- does that NRA web page,
10 again, does that address -- you said it was 60 to 80
11 incidents since 1959?

12 A Sixty to eighty or more.

13 Q Eighty or more. And does it address the
14 private citizen -- in the cases that it outlines or
15 summerizes data for, are those citizens that have
16 used a firearm in self-defense?

17 A They have either drawn or fired the gun in
18 self-defense. Each of those would be either a
19 criminal suspect, one or more criminal suspects
20 taken at gun point, one or more criminal suspects
21 shot in self-defense or defense of others, and more
22 than one case of vicious animals being neutralized
23 with gunfire before they could harm or continue to
24 harm humans they were already attacking.

25 Q In your mind can judicious use of a firearm

1 include the firing of a weapon that holds less than
2 15 rounds?

3 A Yes, of course.

4 Q Okay. So would you agree that the legislation
5 at issue, HB 1224, doesn't prevent defensive use of a
6 firearm?

7 A It limits the capacity of that firearm for
8 defensive use.

9 Q Okay. Would you agree that a firearm that
10 holds -- would you agree that a gun with a
11 high-capacity magazine such as a 30-round or a
12 40-round capacity increases the potential of injury
13 to others?

14 MR. COLIN: Foundation, speculation.

15 THE WITNESS: Within what context, ma'am?

16 BY MS. MOATS:

17 Q Within the context of a mass shooting, for
18 example.

19 MR. COLIN: Same objection.

20 THE WITNESS: Well, certainly the firepower
21 goes in both directions. That said, the impact
22 on the bad guy is minimal. The reason is you have
23 essentially slaughters inside the slaughter house.

24 In your state, Harris and Klebold knew that
25 except for the school resource officer outside,

1 there was no one in there with a gun that could
2 ward them off. All of the victims were helpless.
3 No one was able to make an attempt to disarm them.
4 No one had a weapon with which to stop either of
5 them.

6 Holmes, H-o-l-m-e-s, and the Aurora school (sic)
7 massacre, it appears that there were many theaters
8 closer to where he lived, some of them that would
9 have been open at the same hour and likely would
10 have more victims, a more victim-rich environment.

11 But he choose the one that was posted as a
12 gun-free zone, which apparently he had done his
13 homework and was quite careful to go to the one
14 place where nobody would be able to shoot back.

15 BY MS. MOATS:

16 Q How would --

17 A In a case --

18 Q Oh, go ahead.

19 A In a case like that, it's not going to matter
20 whether it takes him two seconds to reload before the
21 next victim. For the private citizen, the goods guys
22 if you will, the citizen, the cop, the security guard,
23 when they're reacting defensively and under fire, they
24 have much less time in which to save their lives.

25 So I would say, if anything, it's a more

1 disparate impact on the citizen than there is on the
2 criminal. You have mentioned previously, well, if you
3 can't get more than 15 rounds, why don't you just carry
4 another gun.

5 You saw that is what each of those mass
6 murderers in your state did. Harris and Klebold had
7 two guns a piece. Holmes had three. When the --
8 ironically when the high-capacity gun jammed, he went
9 to the low-capacity shotgun.

10 So the -- I think the extent to which it would
11 reduce harm to the innocent is far outweighed by the
12 likelihood of harm that it could cause to the private
13 citizen, to a police officer who retires to somewhere
14 in Colorado and under the Law Enforcement Officer's
15 Safety Act, he's legal to carry, but he is bound by
16 the magazine restrictions in the given state.

17 And as the Sheriffs who have brought this
18 lawsuit and pointed out, the nature of the law has
19 made dealers very leery of having them in stock at
20 all, which limits their availability to law
21 enforcement. So in essence, I think what you've
22 seen is unintended consequences and in the long run,
23 potential for it to harm the innocent more than it
24 reduces the death toll of mass murders.

25 Q Are there any circumstances under which you

1 think use of a high-capacity firearm -- or let me
2 ask you this, under what circumstances do you
3 believe use of a high-capacity firearm could cause
4 injury to innocent bystanders?

5 MR. COLIN: Can we define high-capacity
6 firearm?

7 MS. MOATS: Sure.

8 BY MS. MOATS:

9 Q What you've defined as a high-capacity
10 firearm in today's testimony.

11 A Well, it would be the same as any stray bullet
12 that struck an innocent party, whether it was
13 recklessness on the part of the shooter or whether
14 the totality of the circumstances was such that the
15 shooter could not see what was behind the offender he
16 aimed at.

17 Perhaps the offender's body physically blocks
18 his view. Perhaps behind -- he can see the offender,
19 but behind him is total darkness. Whether it's a
20 20-shot pistol or a five-shot revolver, if the bullet
21 misses, it will strike wherever its trajectory took
22 it.

23 Q Okay. On page -- turning to page 6 of your
24 rebuttal report, the top paragraph you say, "In the
25 instant case, particularly for those citizens of

1 Colorado who are physically disabled and limited in
2 their ability to reload short-count magazines or
3 move to cover or escape from deadly danger, that
4 peace-of-mind issue needs to be considered with at
5 least the same weight as any other element of
6 emotion, whether individual or collective."

7 What do you mean by short-count magazines?

8 A Basically if I was a Colorado resident who,
9 under your current law, tomorrow bought a Glock 17
10 pistol, since there is no 15-round magazine available
11 for it, I would have to buy -- the only magazine,
12 except the now forbidden 17-round it was designed
13 for, is a 10-round magazine. So essentially I would
14 be cutting my defensive capability by, what, 40
15 percent or something.

16 Q And just to confirm, you're not aware of any
17 data or studies indicating that someone who is
18 physically disabled requires more than 15 rounds to
19 defend themselves?

20 MR. COLIN: Asked and answered.

21 THE WITNESS: Yeah, as we've said many times,
22 that's going to be driven by the situation more
23 than by the nature of the defender; that is,
24 whether it's Arnold Schwarzenegger or, you know,
25 someone who lost his legs in Afghanistan.

1 The fact that, as we've said, that the various
2 handicaps may make it take much longer for the
3 disabled person to reload or may make it
4 impossible for them to run and be a more difficult
5 target and live long enough to escape or to run to
6 cover or even escape the scene. Those options will
7 be off the table for the lower-extremity amputee or
8 for the person who is in a wheelchair.

9 BY MS. MOATS:

10 Q Okay. And you're basing that off of your
11 personal experience working with people with
12 disabilities?

13 A Personal experience, collective experience,
14 logic and common sense applied with the specific
15 knowledge of the disciplines involved, yes, ma'am.

16 Q Okay. And what do you mean by discipline
17 involved?

18 A Disciplines involved, the physical mechanics
19 of reloading a firearm, speed of firing the firearm,
20 noted speed of accessing a second gun, if that's an
21 option, and things of that nature.

22 MS. MOATS: Okay. Let's see. I think -- can
23 we take maybe like a quick ten-minute break and
24 then we'll come back? I still have probably about
25 45 minutes more.

1 MR. COLIN: Sure.

2 THE WITNESS: No problem.

3 (Brief recess taken.)

4 BY MS. MOATS:

5 Q Okay. Mr. Ayoob, we're back on the record
6 after taking a short afternoon break. And I'm going
7 to refer you to your rebuttal report --

8 A Yes, ma'am.

9 Q -- on page six.

10 A Page six?

11 Q Yes.

12 A Okay.

13 Q In paragraph three of that report you state,
14 "The reason American society arms its police in
15 every state, including Colorado, and has some
16 provision for law-abiding private citizens to keep
17 loaded firearms in their home and to be permitted to
18 carry them in public is the assumption that when
19 armed criminals murder or credibly threaten to
20 murder innocent victims, it is to society's benefit
21 for those potential victims or their designated
22 protectors to be able to fight fire with fire."

23 Do you see that?

24 A I do.

25 Q And would you agree that nothing in the

1 subject legislation, House Bill 1224, prevents any
2 citizen of Colorado from using their gun or
3 fighting fire with fire?

4 A Well, it limits their fire fighting
5 capacity.

6 Q Right. But it doesn't -- it doesn't limit
7 their ability to use their gun and to fire?

8 A It doesn't say they cannot use guns, no.

9 Q Okay. And then on page 6 also you reference
10 an incident, the Trolley Square Mall shooting.

11 A Yes, ma'am.

12 Q And there you say in the last paragraph,
13 "The murders stopped when the killer came under
14 fire from an off-duty police officer who pinned him
15 into one spot with return gunfire. That officer was
16 armed with a seven-shot off-duty pistol and had no
17 spare ammunition. By the time responding police
18 officers arrived to take over, finishing the fight
19 and killing the perpetrator, that officer had
20 profound reason to wish he had been carrying a gun
21 with more ammunition."

22 A Yes, ma'am.

23 Q Do you know what capacity firearm off-duty
24 police officers normally carry?

25 A It varies widely. I see everything from the

1 old five-shot revolver to officers who will carry
2 their 18-shot Glock 17 in an off-duty concealment
3 holster and wear the same gun that they carry on
4 duty.

5 Q And you know that based on your experience
6 in training them?

7 A Collective experience, yes, ma'am.

8 Q Okay. What if the Trolley Square off-duty
9 police officer had spare magazines to accompany his
10 seven-shot off-duty pistol?

11 A He would have been in a better position.

12 MR. COLIN: Vague, speculative.

13 Go ahead.

14 BY MS. MOATS:

15 Q I'm sorry?

16 A I don't think it's arguable that he would
17 have been in a better position to continue to
18 contain the threat. Fortuitously he was joined by
19 another officer who did have loaded guns and that
20 officer's gunfire was able to keep the murderer
21 pinned in position until the SWAT team basically
22 took the guy out.

23 Q Okay. So what you're saying is it wouldn't
24 have mattered if he had extra magazines?

25 A No. I'm saying he probably, if things had

1 gone differently, would have been unable to continue
2 containing the threat if the other officer had not
3 arrived. A spare magazine certainly would have
4 helped, a higher-capacity pistol certainly would
5 have helped. It's the classic example of it's
6 better to have more and not need it than to need
7 more and to not have it.

8 Q Okay. Turning to page 7 of your rebuttal
9 report.

10 A Yes, ma'am.

11 Q The first full paragraph you say --

12 A I'm sorry. The first full --

13 MR. COLIN: I'm sorry. What did you say?

14 MS. MOATS: The first full paragraph.

15 MR. COLIN: Thank you.

16 MS. MOATS: I'm sorry.

17 MS. COLIN: Sorry.

18 THE WITNESS: It's been a long day.

19 MS. MOATS: Yes.

20 BY MS. MOATS:

21 Q "Returning to the Aurora atrocity," you say,
22 "we now know that the killer surrendered meekly as
23 soon as he realized he was facing armed men." I just
24 wondered how you know for a fact that Mr. Holmes,
25 James Holmes -- I assume that's who you're referring

1 to with respect to the Aurora atrocity, correct?

2 A It is.

3 Q How do you know for a fact that James Holmes
4 surrendered because he knew he was facing armed men?

5 A Because he did when he was confronted by the
6 officers.

7 Q But do you know it was because they were
8 armed or do you know if perhaps there was another
9 reason, correct?

10 A You mean he was suddenly overcome by guilty
11 conscience?

12 Q I don't know. I think it's speculation.
13 Nobody knows, correct?

14 A No. I think it is a very logical, indeed,
15 and an inescapably logical conclusion that had
16 those been unarmed British Bobbies, they might
17 have just padded the death count.

18 Q Okay. And is that speculation on your
19 part?

20 A I think that's common sense applied with a
21 specific knowledge of human nature and armed
22 encounters gathered over 40 some years. Will it
23 be the position of the Colorado Attorney General's
24 Office that he surrendered because he wanted to go
25 to jail?

1 Q I'm just saying I don't think anyone knows
2 why Mr. Holmes surrendered. It could have been part
3 of his -- for example, if he does have a psychological
4 impairment of some type, it could have been related to
5 that.

6 What I'm saying is that we don't know and he
7 hasn't ever testified himself or sworn under oath
8 regarding what he -- why he did what.

9 A Well, if he ever does and people take a poll
10 as to what he says was the reason he surrendered, I
11 will be betting on the fact that several police
12 officers were pointing high-powered high-capacity
13 automatic rifles at him.

14 Q Okay. But you've never spoken with him,
15 correct?

16 A No, ma'am, I did not. I am not one of his
17 voices.

18 Q As to the rest of that paragraph, you do know
19 that gun -- you note, I'm sorry, that gunfire could
20 have been safely sent in his direction by any armed
21 person who was in a position to angle his or her
22 shots upward safely over the heads of anyone between
23 the rescuer and the murderer.

24 Would you agree that gunfire would have been
25 sent in his direction whether -- could have been sent

1 in his direction, I'm sorry, whether it was from a
2 15-round capacity firearm or a 30-round capacity
3 firearm?

4 A Yes, of course.

5 Q Okay. And then looking --

6 A The point --

7 Q Oh, go ahead.

8 A No. The point I was making was simply that
9 since the conditions were dark, he had let go a
10 chemical agent inside that impaired visibility, and
11 he was wearing body armor, and it probably would have
12 taken much more than the usual number of shots to
13 stop him, as compared to say if someone had taken the
14 non-armored Dylan Klebold or Eric Harris under fire
15 in the Columbine incident.

16 Q Okay. And when you -- when you note that,
17 do you have any idea with respect to Dylan Klebold
18 and Dylan (sic) Harris in the Columbine incident,
19 how many -- in your opinion how many shots it
20 would have taken to -- if someone had a gun, to
21 take those two, one of those two, or both of those
22 perpetrators down?

23 A It would have depended on who had the shot,
24 who was within range, and would have had the
25 opportunity to engage them.

1 Q Okay. And then looking back at the rebuttal
2 report on page 7.

3 A Yes, ma'am.

4 Q You also address the shooting in Tucson.

5 A Yes, ma'am.

6 Q And in the second to last full paragraph --

7 A Yes, ma'am.

8 Q -- you say: While plausible on the surface,
9 this argument overlooks the fact that it was 61 year
10 old woman who tore the fresh 30-round -- 33-round
11 magazine from Loughner's, L-o-u-g-h-n-e-r, apostrophe,
12 s, hand before he could reload it into his Glock 19
13 pistol.

14 How was a female senior citizen able to
15 wrench that object out of the hand of a much younger,
16 much stronger male? The most obvious answer is
17 leverage.

18 And then you go on to cite a blog, it appears
19 like, from the Phoenix New Times article by -- a blog
20 James King, Second Suspected -- Suspect loaded --
21 Located and Cleared, dated January 9th, 2011.

22 Do you see that?

23 A Yes, ma'am.

24 Q Okay. Why did you --

25 A Wait a second. Did you say -- say that again.

1 Q I'm sorry.

2 A Did you say second suspect?

3 Q Second Suspect Located and Cleared.

4 A I do not have that on my copy, I don't think.
5 Can you show me where that is?

6 Q I'm just reading where it says source, James
7 King.

8 MR. COLIN: Here.

9 THE WITNESS: Oh, I see. I'm sorry.

10 MS. MOATS: No. I probably confused you.

11 THE WITNESS: I was looking below that. I do
12 have that, and I was looking in the wrong place.
13 I apologize.

14 MS. MOATS: Okay, no, that's no problem.

15 BY MS. MOATS:

16 Q So you have cited a blog there, correct?

17 A Yes, ma'am.

18 Q Okay. Did you search for any other
19 information regarding -- or did you search for
20 information regarding the Tucson incident from
21 anywhere else?

22 A Not specifically for this. I followed it
23 in detail as it was unfolding, and I interviewed at
24 length Joe Zamudio, Z-a-m-u-d-i-o, who was one of
25 the people who contained Loughner.

1 Q Okay. And when did you interview -- for
2 what purposes did you interview Mr. Zamudio?

3 A For my personal knowledge. It was quite some
4 time before I became involved in this case.

5 Q Okay.

6 (Defendant's Composite No. 9 was marked for
7 identification.)

8 BY MS. MOATS:

9 Q Okay. Mr. Ayoob, you've just been handed
10 what's been marked as Deposition Exhibit --

11 THE COURT REPORTER: Let me make sure I have
12 the right --

13 MR. COLIN: Nine?

14 THE COURT REPORTER: Nine.

15 MS. MOATS: I'm sorry.

16 THE COURT REPORTER: That's okay. No. I'm
17 sorry.

18 MS. MOATS: I apologize.

19 THE COURT REPORTER: That's all right.

20 THE WITNESS: Exhibit 9, yes, ma'am.

21 BY MS. MOATS:

22 Q Exhibit 9, yep. And this is an article from
23 CNN that I printed out. It's entitled, Congresswoman's
24 Responses after Arizona Shooting Called Encouraging.

25 A Yes, ma'am.

1 Q And it's by the CNN Wire Staff, dated January
2 10th, 2011. And if you turn to the second page of
3 this article, about the fourth -- starting with the
4 fourth paragraph down, it says: Authorities said the
5 suspect, 22-year-old Jared Lee Loughner, was tackled
6 by two men when he tried to reload his pistol, while
7 a woman in the crowd, Patricia Maisch, took away the
8 fresh magazine Loughner had dropped.

9 He pulled the magazine out of his pants pocket
10 and it dropped onto the sidewalk and before he could
11 reach it, "I got it," Maisch told CNN. "I just
12 reacted. I didn't have an opportunity to think."

13 Asked about people -- asked about people calling
14 her a hero, she said, "The two men that
15 secured him were the heros. I was just an assistant
16 in me being able to get that magazine or clip."

17 So according to this CNN article, it appears
18 that Loughner actually was tackled prior, contrary
19 to what the blog you've cited in your rebuttal
20 report states, it indicates -- this article from CNN
21 indicates that Loughner was actually tackled prior
22 to Maisch grabbing the magazine. Were you aware of
23 that?

24 A No, ma'am. This is the first I had seen it.
25 Every other account I've seen of the incident had

1 Maisch, M-a-i-s-c-h, ripping it out of Loughner's
2 hand.

3 MS. MOATS: Okay. Please mark that one.

4 THE COURT REPORTER: Okay.

5 (Defendant's Composite Exhibit No. 10 was marked
6 for identification.)

7 THE WITNESS: You wouldn't happen to have an
8 extra copy of this, would you, Ms. Moats?

9 MS. MOATS: I do. I will look for it.

10 THE WITNESS: Thank you.

11 BY MS. MOATS:

12 Q Okay. Now you've been handed what's been
13 marked as Deposition Exhibit 10.

14 A Yes, ma'am.

15 Q And this is another article I printed online
16 regarding Gabrielle -- it's entitled, Gabrielle
17 Gifford's Shooting: Four People in Disarming Suspect
18 (as spoken).

19 A Yes, ma'am.

20 Q I printed it from the Arizona Central.com.
21 And it's specifically an article by John Faherty,
22 F-a-h-e-r-t-y, and Dennis Wagner, W-a-g-n-e-r, of
23 The Arizona Republic, and it's dated January 9th,
24 2011. And if you turn to the second page of that
25 article.

1 A Wait just one second, ma'am, so I can write
2 down the citation.

3 Q No problem.

4 A I'm sorry, ma'am. Go ahead.

5 Q Okay. Again, this article is entitled,
6 Gabrielle Gifford's Shooting: Four People Key in
7 Disarming Suspect.

8 A Yes, ma'am.

9 Q Can you turn to the second page of that
10 article under, So Recklessly, about the seventh
11 paragraph down. It says: Maisch had been about
12 ten feet away when the shots began. She knew exactly
13 what she was hearing and she knew she had two
14 atrocious options. She decided not to run for fear
15 of making herself a target. She got down on the
16 ground and hoped.

17 Then the gunman shot the woman lying next to
18 her, and Maisch began to think she had made a bad
19 decision. She should have run. I thought, "I'm
20 next." Maisch said, "I was waiting to be shot. I
21 was wondering what it was going to feel like."

22 But when she -- but what she heard next was
23 not a gunshot. It was the sound of the gunman being
24 tackled. His body hit the pavement hard. She could
25 hear the air leaving him. "The next thing, the gunman

1 is lying on the ground next to me," she said. Maisch
2 remembers the next thing she heard, somebody was
3 yelling, "Get the gun."

4 And then it goes on to say: Zamudio, running
5 from inside the store, emerged as the gunman went
6 down. "I rounded the corner and ran right into them,"
7 he said. He said, "The two men and a woman were taking
8 the shooter down. Maisch was on the shooter's left
9 side and couldn't reach the gun in his right hand.

10 But then he started reaching into his pocket.
11 There he had the clip he needed to reload. Maisch
12 grabbed for it, and he held firm. But it fell from
13 his hand, and she snatched it up."

14 So just based on this article and the CNN
15 article I previously gave you, were you aware that
16 Loughner had tackled -- was actually tackled prior
17 to Maisch grabbing the magazine?

18 A I was aware that he had been tackled.

19 MR. COLIN: Foundation.

20 BY MS. MOATS:

21 Q I'm sorry. You were what?

22 A I was aware that he had been tackled. This
23 second one, Exhibit 10, it's dated the same day as
24 the incident. So apparently they were still
25 gathering details. And I noticed that it was not a

1 quote from Maisch. That is the writer's
2 interpretation of what happened.

3 Let's see where that was. He says, quote:
4 Maisch grabbed for it, and he held firm. But it fell
5 from his hand, as she snatched it up.

6 That would indicate to me that what he might
7 have been trying to say was that it was her hand
8 grabbing for it that caused it to fall from his hand
9 and she snatched it up. The other accounts describe
10 her as having ripped it from his hand.

11 Q Okay. But to the extent these two accounts
12 I've handed -- and by the other accounts, you're
13 referring to the blog article that you said was --

14 A The blog article and the other articles from
15 the beginning of the reports, my understanding was
16 that she was the one who had taken the magazine away
17 from him, not that she picked it up off the ground.

18 Q Okay. But both -- in both the articles I
19 handed you, the CNN and the Arizona Republic
20 Article, they both indicate that she -- that the
21 magazine actually fell to the ground at which point
22 she grabbed it, correct?

23 A They do, yes.

24 Q Okay. To the extent that the magazine did
25 fall to the ground and she grabbed it, does this

1 change your opinion that Maisch was able to grab
2 the magazine because of leverage?

3 A Well, it would depend. If the accounts that
4 I have read that she grabbed it from his hand are
5 true -- let me go back to my exact words in the
6 rebuttal report, "How was a female senior citizen
7 able to wrench that object out of the hand of a much
8 younger, much stronger male? The most obvious answer
9 is leverage." And we explain why the long extended
10 magazine would give the disarmer actually more
11 leverage than the person holding it.

12 I based that on having been an instructor
13 and disarming and weapon retention -- that is, the
14 defeating of a disarming attempt on you -- since
15 1980. And 1990, I became what's called master
16 instructor or instructor trainer; that is, a
17 trainer of others who would teach this.

18 I have, in the training environment, disarmed
19 literally thousands of people. Leverage is the key
20 element. The longer the object is, the more easy it
21 is for another person to rip it out of your hand.
22 I've often said that if there was a national
23 championships of disarming, I would have a gun with
24 about a ten-inch barrel and slick pearl handles to
25 give to my opponent to make it easier for me to take.

1 And if there was a national championships of
2 disarming where I had to retain the gun, I'd want
3 something with a two-inch barrel and rough textured
4 grips.

5 I believe we can clearly demonstrate -- in
6 fact, I can show you now if you'd like. I have
7 exemplars in my car -- that the longer magazine is
8 much easier to rip out of someone's hand than the
9 shorter one.

10 Q Okay. But assuming to the extent these
11 articles are correct and that, you know, he did drop
12 the magazine clip, would that change your opinion as
13 to leverage?

14 A Well, no, ma'am, because the leverage is an
15 immutable law. Whatever happened in this case, and
16 as I said, the -- what I've seen indicates she took
17 it from his hand. I will have to do more research on
18 that and that's why I took the time to write down the
19 citations you were kind enough to provide.

20 That said, one of the arguments here is, since
21 none of us can go back in a time machine to January 9,
22 2011, to save Ms. Gifford and the many other people who
23 were shot, it obviously goes toward the future. One of
24 the arguments that's come up throughout the promotion
25 of this legislation was that the individual could be

1 pounced and disarmed during the vulnerable moment while
2 he was reloading in the midst of his mass murder
3 attempt.

4 The point that I made in the rebuttal was that
5 it was ironic that they would cite that -- it's in
6 Dr. Zax's report -- the disarming of Loughner after
7 he's fired 30 some shots. When, in fact, the ripping
8 -- had the magazine been ripped out of his hand or if
9 it needs to be ripped out of the hand of the next
10 killer, the longer magazine will demonstrably be easier
11 to take away from him than the shorter magazine.

12 Q Okay. But assuming, according to these
13 articles, that the magazine was not in his hand, he
14 had actually dropped it on to the ground, would you
15 agree that it doesn't matter what size, Ms. Maisch
16 still would have been able to grab it because it was
17 no longer in his hands?

18 A If it's laying --

19 MR. COLIN: Foundation, speculation.

20 BY MS. MOATS:

21 Q Pardon?

22 A If it's laying on the ground, in theory,
23 that would be correct. In practice, the larger
24 object is obviously easier to find under stress
25 than the smaller object.

1 Q Would you agree that while Loughner was
2 attempting to reload the 33-round magazine, there
3 was a pause in his shooting which enabled action on
4 the part of the citizens standing by?

5 A Yes, I believe that's true.

6 Q Earlier in your testimony you mentioned that
7 a great many private citizens carry only one gun. I
8 couldn't tell you at what point today we discussed
9 that little fact or opinion.

10 A It's been a long day. But, yes, I did make
11 that comment and it is still true.

12 Q And when you say that, what -- to your
13 knowledge, what type of -- what type of -- what
14 capacity firearms do private citizens typically
15 carry?

16 A As we said earlier, it's much like the
17 off-duty police officers. There are people out
18 there carrying two-shot Derringers. There are --
19 one of the most popular handguns out there is the
20 five-shot short-barrel revolver.

21 There are many people who carry single-stack
22 pistols, because they're more compact, easier to
23 conceal; and if they're holstered inside the
24 waistband, being thinner, they're more comfortable.
25 There are a number of people who prefer the

1 double-action revolver, because they trust it more
2 than they do a semiautomatic pistol. And those will
3 range from five- to eight-shot capacity in a defense
4 type gun.

5 There are many people who prefer the old 1911
6 style .45 automatic, the old Army automatic,
7 colloquial. An increasing number do go to the
8 higher-capacity guns. But again, there is no
9 empirical data base where we can get the average.

10 We know the higher-capacity guns are
11 probably the best sellers, because that is tracked
12 by the Federal Bureau of Alcohol, Tobacco and
13 Firearms. But those manufacturing figures also
14 encompass guns that are ultimately sold to law
15 enforcement.

16 Q And do you know if that analysis, in terms of
17 what types of guns private citizens carry, do you
18 know if that is any different for disabled citizens
19 in terms of what guns they might carry?

20 A Well, I can tell you, as I have throughout the
21 day, I think the higher-capacity gun for them is a
22 better choice. But again, I'm not aware of any
23 survey that has even been taken or any empirical data
24 base on that.

25 Q And earlier in the day, you testified -- or

1 earlier in the day I had asked you a question about
2 whether use of a high-capacity magazine -- excuse me
3 -- whether use of a high-capacity magazine might
4 increase potential injury to innocent bystanders. Do
5 you remember that question?

6 A I do.

7 Q Okay. And I think your answer -- I mean you
8 had -- part of your answer, I should say, was that
9 it wouldn't matter if someone had a five-shot
10 revolver or -- I don't know -- like a 30-round rifle,
11 there's still the potential for someone to be
12 injured.

13 A Sure. The potential would increase with the
14 number of shots being fired, assuming that those shots
15 were missing and going into an unsafe backstop; that
16 is, going in a direction where the projectiles could
17 not be safely contained.

18 Q Okay. Is it your belief that in most
19 circumstances, the mere presence of a gun is enough
20 to ward off a criminal threat?

21 A I believe historically that has proven true.
22 It is collective experience of the armed citizen and
23 law enforcement.

24 Q Okay. And today we've looked through your
25 initial expert report and your rebuttal report and

1 talked about various opinions. Are there any -- is
2 there anything we did not discuss today that you
3 intend to opine about at trial?

4 A No, ma'am, not that I can think of. I
5 think I should probably ask Mr. Colin the same
6 question.

7 MS. MOATS: Do you guys want to take a five
8 minute break or do you want to --

9 THE WITNESS: At my age we never say no to five
10 minute breaks. My brother and I will have to debate
11 that.

12 MR. COLIN: If you need a break, sure.

13 MS. MOATS: Why don't we take five minutes and
14 then I think we're almost done and we'll wrap it
15 up.

16 THE WITNESS: Sure.

17 (Brief recess taken.)

18 BY MS. MOATS:

19 Q Okay. Mr. Ayooob, we are back on the record
20 after taking another short afternoon break. And I
21 just wanted to -- at the beginning of your
22 deposition, you had indicated that in terms of
23 documents you've reviewed in this case, that you've
24 had the opportunity to review the expert report of
25 Doug Fuchs; is that correct?

1 A Yes, ma'am.

2 Q Okay. And did you -- as you sit here today,
3 did you have any thoughts about any of his
4 opinions?

5 A I disagreed with some, agreed with some. I
6 do not believe I've ever met Chief Fuchs.
7 Certainly his resume is impressive. I respect his
8 accomplishments. I would have to look at the report
9 briefly to refresh to see what disagreements that I
10 may have.

11 Q Okay. And how about Mr. Cerar's report, did
12 you have an opportunity to review that?

13 A I did, ma'am.

14 Q Did you any -- any part of that that you
15 recall disagreeing with?

16 A There are parts of it I disagreed with, yes,
17 ma'am.

18 Q Do you recall what those are?

19 A The contention that no one would ever need a
20 -- I forget -- again, I forget the exact words,
21 either would never need or was most unlikely to ever
22 need more than 15 rounds. There were some other
23 points in which I would respectfully disagree, but I
24 would need to see the report.

25 Q Okay. And when you say again that you

1 disagree with his contention that no one would ever
2 need more than 15 rounds, is that, again, based on
3 your testimony today that there are those rare
4 circumstances that might in which -- that which
5 might necessitate more than 15 rounds of
6 ammunition?

7 A It would.

8 MS. MOATS: Okay. I think that concludes my
9 questioning for today. Thank you.

10 THE WITNESS: Very good, ma'am.

11 Refresh me, do I send the invoice to you or
12 through Mr. Colin?

13 MS. MOATS: Send it through Mr. Colin, and he
14 can send it to me.

15 MR. COLIN: There you go.

16 THE WITNESS: Let me just confirm what
17 you're going to need. You wanted an article
18 from Guns Magazine, one from Shooting Industry
19 and one from Glock Annual and Wounded
20 Warriors?

21 MS. MOATS: Yes.

22 THE WITNESS: And did you want me to find
23 and send it to Mr. Colin that link, that NRA
24 collection, as well?

25 MS. MOATS: Yes, please.

1 THE WITNESS: And we are agreed we are closing
2 at 3:17?

3 MS. MOATS: Yes.

4 THE WITNESS: Okay. Ms. Minnich, I will not
5 waive. I will read.

6 THE COURT REPORTER: Okay.

7 (Deposition concluded at 3:17 p.m.)

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1 STATE OF FLORIDA)

2 COUNTY OF COLUMBIA)

3

4 I, the undersigned authority, certify that
5 the witness, MASSAD AYOUB, personally appeared
6 before me on the 29th of October, 2013, and was
7 duly sworn.

8

9

10 Signed this _____ day _____,

11 2013.

12

13

Cassie Minnich, FPR, Court Reporter
and Notary Public-State of Florida
My commission No. EE 055595
Expires: 04/30/2015

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C E R T I F I C A T E

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STATE OF FLORIDA
COUNTY OF COLUMBIA

I, Cassie Minnich, FPR, Court Reporter and Notary Public, certify that I was authorized to and did stenographically report the deposition of MASSAD AYOOB; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying court reporter.

DATED this ____ of _____, 2013.

Cassie Minnich, FPR, Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Civil Action No. 13-cv-01300-MSK-MJW

IN RE: JOHN B. COOKE, Sheriff of Weld County,
Colorado, et al.

Plaintiffs,

v.

JOHN W. HICKENLOOPER, Governor of the
State of Colorado,

Defendant.

I, MASSAD AYOOB, have read the foregoing
pages of my deposition given on the 29th of October,
2013, and wish to make the following amendments,
additions, deletions or corrections:

PAGE NO.	LINE	CHANGE AND REASON FOR CHANGE
_____	_____	_____
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In all other respects the transcript is true and
correct.

Under penalties of perjury, I declare that I have
read my deposition and that it is true and correct
subject to any changes in form or substance entered
here.

MASSAD AYOOB

DATE: _____