

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PEOPLE OF THE STATE OF NEW YORK, BY
LETITIA JAMES, ATTORNEY GENERAL OF
THE STATE OF NEW YORK,

Plaintiff,
v.

THE NATIONAL RIFLE ASSOCIATION OF
AMERICA, WAYNE LAPIERRE, WILSON PHILLIPS,
JOHN FRAZER, and JOSHUA POWELL,

Defendants.

:
:
: Index No. 451625/2020
:
: Hon. Joel M. Cohen
:
: **STIPULATION**
: **AND ORDER**
: **REGARDING**
: **SCHEDULING**
:
:
:
:

WHEREAS, on or about March 9, 2021, the Parties in the above-captioned action entered into a proposed Preliminary Conference Order (the “PPCO”) and an Addendum thereto (both annexed here as Exhibit A);

WHEREAS, the Parties have operated with the understanding that the provisions of the PPCO govern the case;

WHEREAS, the Court held a Status Conference on September 23, 2021, at which the Court directed that, to the extent the Parties wish to modify the previously agreed-upon schedule, the Parties should agree on a modified schedule, which they should then submit to the Court attention for approval;

WHEREAS, on October 11, 2021, upon request of the Parties, the Compliance Conference scheduled for October 12, 2021, as set forth in the PPCO, was adjourned without date by the Court;

WHEREAS, consistent with the provisions of Rule 13(a) of the Commercial Division Rules, the Parties have agreed to modify the PPCO and to seek an order of the Court setting the schedule as set forth below;

WHEREAS, the Parties agree that modifications to the discovery schedule, to which they consent herein, are necessary to ensure an adequate opportunity for pre-trial discovery and preparation;

WHEREAS, the Parties agree to incorporate and adopt the terms of the PPCO (including the Addendum thereto), except as amended by this Stipulation and Order; and

WHEREAS, the Parties now respectfully seek a Court Order (i) so-ordering the terms of the PPCO; and (ii) amending its terms as set forth below.

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED, that the terms of the PPCO are adopted and incorporated in this Stipulation and Order, except as amended herein;

IT IS FURTHER STIPULATED, AGREED, AND ORDERED that the dates set forth in the PPCO shall be amended as follows:

	PPCO Dates/Deadlines	Modified Dates/Deadlines
Document production	October 8, 2021	December 20, 2021
Fact Depositions Completed	December 17, 2021	February 15, 2022
End of Fact Discovery (including all responses to discovery demands served and document production completed)	December 17, 2021	February 15, 2022

Parties Serve CPLR 3101(d) Expert Disclosure	January 21, 2022	March 22, 2022
Parties Serve Rebuttal Expert Reports	February 25, 2022	April 12, 2022
Expert Depositions	Mar 14, 2022 – April 15, 2022	April 26, 2022 – May 20, 2022
End of Expert Discovery/End of all Discovery	April 15, 2022	May 20, 2022
Note of issue	April 20, 2022	May 27, 2022
Deadline for dispositive motions and/or motions directed to experts	May 18, 2022	June 30, 2022

IT IS FURTHER STIPULATED, AGREED, AND ORDERED that this Stipulation can be executed in counterparts and by using electronic, scanned or telefaxed signatures, with the same effect as original signatures.

IN WITNESS WHEREOF, this Stipulation is executed by counsel for the Parties on November 30, 2021.

For Plaintiff-Counterclaim-Defendant

ATTORNEY GENERAL
OF THE STATE OF NEW YORK

By: /s/ Monica Connell
Monica Connell
Stephen Thompson
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For Defendant/Counterclaim Plaintiff
The National Rifle Association of America

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For Defendant Joshua Powell

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SO ORDERED

J.S.C

EXHIBIT A

**SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF NEW YORK: PART 3**

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PEOPLE OF THE STATE OF NEW YORK, BY
LETITIA JAMES, ATTORNEY GENERAL OF THE
STATE OF NEW YORK,

Plaintiff(s)

- against -

THE NATIONAL RIFLE ASSOCIATION OF A
AMERICA, INC., WAYNE LAPIERRE,
WILSON PHILLIPS, JOHN FRAZER, and
JOSHUA POWELL

Defendant(s)

-----X

Present:
Hon. Joel M. Cohen

Index No: 451625.2020

RJI Filing Date: 8/6/2020

DCM Track:

- ☐ Expedited
☐ Standard
☒ Complex

PRELIMINARY CONFERENCE ORDER

I. APPEARANCES:

Plaintiff: Assistant Attorneys General James Sheehan, Emily Stern, Monica Connell and Jonathan Conley

Defendant(s):

II. CONFIDENTIALITY AGREEMENT AND ORDER

Do the parties anticipate the need for a Confidentiality Order? X Yes ☐ No

If yes, have the parties entered into a Confidentiality Agreement? ☐ Yes X No

If needed, the parties are directed to use the Model Confidentiality Agreement found in Attachment B of the Rules of the Trial Courts found at:

[https://www.nycourts.gov/rules/trialcourts/202.70\(g\)%20-%20Rule%2011-g%20\(attachment\).pdf](https://www.nycourts.gov/rules/trialcourts/202.70(g)%20-%20Rule%2011-g%20(attachment).pdf)

III. PRE-ANSWER MOTIONS

Have any Pre-Answer Motions been filed? ☒ Yes ☐ No

If yes, has a Decision been rendered by the Court? ☒ Yes ☐ No

If yes, has the Decision been appealed? ☐ Yes ☐ No

What Causes of Action remain: No causes of action were dismissed.

IV. FACT DISCOVERY

This Part strictly adheres to all discovery end dates. Parties should be prepared to complete discovery and file Note of Issue by the date provided herein absent extraordinary circumstances and upon good cause shown.

Parties confirm that they understand this:

Plaintiff(s) X Yes ☐ No

Defendant(s) X Yes ☒ No

1. The End Date for Fact Discovery is: December 17, 2021 (For “expedited track” cases, absent extraordinary circumstances and a showing of good cause, this date shall be no more than **3 months** from today’s conference date; For and “standard track” cases, absent extraordinary circumstances and a showing of good cause, this date shall be no more than **4 months** from today’s conference date for “complex cases”, absent extraordinary circumstances and a showing of good cause this date shall be no more than **6 months** from today’s conference date.
2. All parties, on or before, See addendum, shall serve Demands for discovery, including document demands, Notices to Admit, and Interrogatories (if applicable).
3. All parties, on or before See addendum, are to provide written responses, document production and/or objections to all discovery demands.
4. All parties and non-parties are to be deposed by December 17, 2021.

V. EXPERT DISCOVERY

Parties are to serve CPLR 3101(d) expert disclosure by January 21, 2022
(absent extraordinary circumstances and a showing of good cause date not to exceed 45 Days following the close of Fact Discovery).

VI. END DATE FOR ALL DISCOVERY

Parties are to complete all discovery no later than April 15, 2022
(absent extraordinary circumstances and a showing of good cause date not to exceed 14 days following close of Expert Discovery).

Parties may stipulate to modify the *intermediate* deadlines set forth in Sections III and IV above. However, any proposed extension of the End Date for All Discovery must be requested by Order to Show Cause and must demonstrate good cause for the requested extension. If stipulated extensions to intermediate deadlines have created the proposed need for an extension of the End Date, the request for such an extension is unlikely to be granted. In other words, parties who stipulate to extension of intermediate discovery deadlines do so at their own risk.

VII. NOTE OF ISSUE

Parties are to file Note of Issue by April 20, 2022 (for “expedited” matters absent extraordinary circumstances and a showing of good cause this date shall be no later than **7 months** from the RJI filing; for “standard track” matters absent extraordinary circumstances and a showing of good cause this date shall be no later than **8 months** from the RJI filing for “complex track” matters absent extraordinary circumstances and a showing of good cause this date shall be no later than **10 months** from the RJI filing).

NOTE: Absent extraordinary circumstances and with good cause shown, the Note of Issue filing deadline will NOT be adjourned.

VIII. DISPOSITIVE MOTION PRACTICE

Parties are to file Motions for Summary Judgment by May 18, 2022 (absent extraordinary circumstances and a showing of good cause this date shall be no more than

30 days following the filing of Note of Issue).

IX. COMPLIANCE CONFERENCE

Parties are to return for a Compliance Conference on October 12, 2021, 9:30 a.m. (to be set by Court).

FAILURE TO COMPLY WITH ANY OF THESE DIRECTIVES MAY RESULT IN THE IMPOSITION OF COSTS OR SANCTIONS OR OTHER ACTION AUTHORIZED BY LAW. WHILE DISCOVERY END DATES, NOTE OF ISSUE FILING DATES AND DISPOSITIVE MOTION FILING DEADLINES MAY NOT BE ADJOURNED EXCEPT WITH ADVANCE APPROVAL OF THE COURT, INTERIM DEADLINES (I.E. DEPOSITION DATES AND EXCHANGE OF DOCUMENT DISCOVERY) MAY BE AMENDED ONLY IF ALL PARTIES CONSENT.

Plaintiff: */s/Emily Stern*

National Rifle Association of America -- /s/ Sarah B. Rogers
Defendant: _____

Defendant: _____

Defendant: _____

Dated: _____

SO ORDERED:

J.S.C.

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Addendum to Preliminary Conference Order

Requests to Admit:

Each party may serve a reasonable number of requests to admit on any other party.

Interrogatories:

The limitations on number, substance, and timing of interrogatories set forth in Rule 11-a of the Commercial Division Rules shall presumptively apply, but the parties may seek permission to modify the presumptive limitations where it would enhance efficiencies in the discovery process.

Depositions:

Depositions shall be conducted in accordance with Rule 11-d of the Commercial Division Rules, except:

The number of depositions shall be modified, as set forth below.

- (i) Plaintiff may conduct thirty (30) fact depositions;
- (ii) Defendant NRA may conduct thirty (30) fact depositions; and
- (iii) The individual defendants shall be allotted additional fact depositions as follows, with the understanding that Defendants shall coordinate in good faith to avoid duplication, and the individual defendants shall utilize their additional allowance only as necessary for discovery on issues specific to that particular individual defendant:
 - a. ten (10) depositions for LaPierre
 - b. five (5) depositions for Frazer
 - c. five (5) depositions for Phillips
 - d. five (5) depositions for Powell
- (iv) Each party reserves the right to take additional depositions on consent of the parties or good cause shown to the Court.

The duration of depositions may be extended beyond 7 hours on a witness-by-witness basis and on the consent of the parties or good cause shown to the Court.

Responses to Discovery Requests:

The timing for responses to document demands, interrogatories, and requests to admit shall be governed by the CPLR, except as provided by the discovery schedule set forth below.

The Discovery Schedule:

The Parties shall adhere to the following schedule for discovery. Except as to those deadlines governing the end dates for Fact and Expert discovery set forth in the Preliminary Conference Order, the parties may agree amongst themselves to change these interim deadlines without leave of the Court.

Event	Deadline
Parties may begin noticing party and non-party document demands, interrogatories Non-party responses to document demands will be due in accordance with the demands Party responses to written discovery will not be due until 20 days after the preliminary conference order is entered	1/25/2021
Parties may begin noticing non-party fact witness depositions	1/25/2021
Answers due	2/23/2021
Parties may begin noticing depositions of parties	2/23/2021
Preliminary conference	3/9/2021
Depositions start (party and non-party)	5/24/2021
Complete document production by parties	10/8/2021
Fact witness depositions completed	12/17/2021
End of fact discovery – (including all responses to discovery demands served and document production completed)	12/17/2021
Parties serve expert reports	1/21/2022
Parties serve rebuttal expert reports	2/25/2022
Expert depositions	3/14/2022 -- 4/15/2022
End of expert discovery	4/15/2022
Note of Issue	4/20/2022
Deadline for dispositive motions and/or motions directed to experts	5/18/2022