

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.

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:
: Index No. 451625/2020
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: Hon. Joel M. Cohen
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:
: **FIFTH REVISED**
: **SCHEDULING ORDER**

WHEREAS, on or about March 9, 2021, the Parties in the above-captioned action entered into a proposed Preliminary Conference Order (NYSCEF 330) and an Addendum thereto;

WHEREAS, the Parties submitted a proposed Revised Scheduling Order as necessary to ensure an adequate opportunity for pre-trial discovery and preparation, which was so ordered by the Court on December 1, 2021 (NYSCEF 463);

WHEREAS, on January 21, 2022, Plaintiff moved by order to show cause to extend the discovery schedule (NYSCEF 546-558) and, following oral argument on that application on February 15, 2022, the Court set February 28, 2022 as the date by which Parties must complete party document discovery and exchange of privilege logs, with a one-time extension until March 10, 2022 and a three-month extension of all other discovery deadlines, and directed the Parties to submit a new schedule to be so ordered;

WHEREAS, the Parties, in compliance with the directions in the Court's Decision and Order, filed on February 16, 2022 (NYSCEF 587), submitted a proposed Second Revised Scheduling Order, which the Court so ordered (NYSCEF 607);

WHEREAS, on May 2, 2022, the Plaintiff filed the Second Amended Verified Complaint (NYSCEF 646), in which Plaintiff asserted against the NRA a new claim under EPTL 8-1.4(m), which seeks the appointment of an Independent Compliance Monitor and an Independent Governance Expert, among other relief (the "EPTL Claim");

WHEREAS, on June 6, 2022, the NRA moved to dismiss the EPTL Claim and Defendants LaPierre and Frazer moved to dismiss the claims asserted against them;

WHEREAS, oral argument on the motions to dismiss the Second Amended Verified Complaint is set for September 29, 2022;

WHEREAS, discovery proceeded under the supervision of the Special Master for Discovery appointed by the Court (the "Special Master"), and the Special Master found in a report filed on June 22, 2022 (NYSCEF 712) that there was good cause to extend fact discovery until July 15, 2022;

WHEREAS, the Court so ordered the Fourth Revised Scheduling Order ("Fourth RSO") (NYSCEF 740) on July 1, 2022, and held that "[a]bsent a material change in circumstances, and subject to the recommendation of Judge Sherwood, the Parties should assume that no further extensions impacting the final date on this schedule will be granted";

WHEREAS, since the Fourth RSO was entered on July 1, 2022, the Parties have worked to complete fact discovery by taking depositions, meeting and conferring on numerous occasions in an effort to resolve outstanding issues, proceeding with hearings before the Special Master, briefing (i) two motions by certain defendants for review under CPLR 3104(d) of certain discovery

rulings by the Special Master, (ii) the NRA's motion to dismiss the EPTL Claim, and (iii) certain other defendants' pending motions to dismiss claims asserted against them;

WHEREAS, the Parties are continuing to work to complete the remaining discovery as promptly as possible, including taking the depositions of two fact witnesses in August 2022 whose depositions were scheduled to accommodate the witnesses' serious health concerns;

WHEREAS, the Commercial Division Rule 11-f deposition of the NRA, which the Parties previously anticipated completing in early July 2022, was adjourned by agreement to July 29, 2022 due to COVID-related reasons and, by agreement, took place on July 29, 2022, and August 9, 2022;

WHEREAS, the depositions and motion practice have intruded upon the time necessary to prepare for expert discovery as contemplated in the Fourth RSO;

WHEREAS, all Parties agree that the discovery schedule should be adjusted and have consulted the Special Master for his recommendation regarding the same:

NOW, THEREFORE, IT IS STIPULATED, AGREED, AND ORDERED that the dates set forth in the RSO shall be amended as follows:

	Previous Dates in the Fourth Revised Scheduling Order	Proposed New Dates
Party Document and Privilege Log Production	May 10, 2022	
Fact Depositions Completed	July 15, 2022 ¹	
End of Fact Discovery	July 15, 2022	

¹ Upon agreement of all Parties or order of the Special Master, fact depositions may be taken after this date if necessary.

(including all responses to discovery demands served and document production completed)		
Parties Serve CPLR 3101(d) Expert Disclosure	August 19, 2022	September 16, 2022
Parties Serve Rebuttal Expert Reports	September 9, 2022	October 7, 2022
Expert Depositions	September 23 – October 19, 2022	October 24, 2022 – November 18, 2022
End of Expert Discovery/End of all Discovery	October 19, 2022	November 18, 2022
Note of issue	October 26, 2022	November 29, 2022
Deadline for dispositive motions and/or motions directed to experts	December 2, 2022	January 20, 2023

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 August 10, 2022.

For Plaintiff

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RECOMMENDED

8/11/22 
Hon. O. Peter Sherwood (Ret.), Special Master for
Discovery

SO ORDERED

8/11/22 
Hon. Joel M. Cohen, J.S.C