

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

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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, INC., WAYNE LAPIERRE,	:
WILSON PHILLIPS, JOHN FRAZER, and	:
JOSHUA POWELL,	:
	:
Defendants.	:
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Index No. 451625/2020

IAS Part 3

Hon. Joel M. Cohen

**NOTICE OF MOTION**

Motion Sequence No. 47

**PLEASE TAKE NOTICE** that, upon the Memorandum Of Law In Support Of Defendant The National Rifle Association of America's Motion To Exclude Evidence From Erica Harris (NYSCEF Doc. No. 1321), the Affirmation In Support Of Defendant The National Rifle Association of America's Motion To Exclude Evidence From Erica Harris (NYSCEF Doc. No. 1322), and the exhibits annexed thereto (NYSCEF Doc. Nos. 1323-1329), and all other papers, pleadings and proceedings in this action, Defendant John Frazer, by and through his counsel, pursuant to the Court's Part 3 – Practices and Procedures, Part VI(D) (revised June 23,2023), joins the National Rifle Association of America's motion to exclude evidence from Erica Harris (Motion Sequence No. 47), and incorporates by reference the facts, evidence, legal arguments, and authorities set forth in the aforementioned motion papers filed by Defendant the National Rifle Association of America in support of Motion Sequence No. 47, and will move this Court, before the Honorable Justice Joel M. Cohen, at the Supreme Court, New York County, Motions Submissions Part, Room 130 at 60 Centre Street, New York, New York 10007 at 9:30 a.m. on April 10, 2023, or at such other time as the Court may direct, for an order excluding evidence and

testimony intended to be offered by Plaintiff Attorney General of the State of New York (“NYAG”) through the NYAG’s expert witness Erica Harris (“Harris”), and granting such other and further relief as this Court deems just and proper, on the grounds that:

- (1) Harris’s analysis and testimony is neither helpful nor relevant to the trier of fact;
- (2) Harris’s analysis and testimony are entirely unreliable because the underlying data Harris relied upon was fatally flawed and skewed to support her (and the NYAG’s) preformed conclusions;
- (3) Harris’s conclusions include impermissible legal and factual inferences and conclusions that usurp the roles of the Court and factfinder.

**PLEASE TAKE FURTHER NOTICE** that pursuant to CPLR 2214(b), any opposition to the motion is due at least seven (7) days before the return date stated herein, or at such other time as set by the Court or agreed upon by the parties.

Dated: New York, New York  
March 24, 2023

GAGE SPENCER & FLEMING LLP

By: /s/ William B. Fleming  
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*Counsel for Defendant John Frazer*

To: PEOPLE OF THE STATE OF  
NEW YORK, by LETITIA JAMES,  
Attorney General of the State of New York (via NYSCEF)

**CERTIFICATE OF SERVICE**

I hereby certify that on March 24, 2023, a true and correct copy of the foregoing  
Notice of Motion was served on all counsel of record by NYSCEF.

By: /s/ William B. Fleming