

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK - CIVIL TERM - 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,

-against-

INDEX NO.  
451625/20

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

Defendants.

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JURY TRIAL  
60 Centre Street  
New York, New York  
February 15, 2024

BEFORE: HONORABLE JOEL M. COHEN,  
Justice, and a jury

APPEARANCES:

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NOAH PETERS, ESQ.

## Proceedings

1           THE COURT: All right. Good morning, everyone. I  
2 know we have a lot to accomplish today, so I have a few  
3 decisions to give you resolving things that we have been  
4 batting back and forth both on the record and through  
5 subsequent letters.

6           We -- before I get to that, I have all your  
7 comments on the jury instructions and the verdict form.  
8 Last night and early this morning, I have input all the ones  
9 that I'm accepting, making changes. My team is upstairs  
10 getting those all ready to circulate. I'll highlight a  
11 couple of things though substantively now.

12           So first of all, related-party transactions. I  
13 have read with great interest the letters and the statutes  
14 and just as an aside, right now what I am giving you are  
15 decisions. I'm not asking for argument. I've gotten the  
16 argument. I promise you I have read everything you've  
17 written, and no, I didn't forget that really great footnote  
18 that had a reference to some case from 1860.

19           But having reviewed all of that, my first  
20 conclusion is that the MMP vendor arrangement did not morph  
21 into a related-party transaction simply because the owners  
22 gave subsequent gifts or benefits. I don't think -- well  
23 anyway, the conduct might give rise to other violations of  
24 the N-PCL in connection with the relationship specifically  
25 under the breach of duty claims but not under the specific

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1 terms of the related-party transaction provisions of the  
2 statute.

3 The question here boils down to whether a  
4 reasonable jury could conclude that Mr. LaPierre had a  
5 financial interest in the agreement or broader arrangements  
6 between the NRA and the MMP entities.

7 First observation is certainly not in the  
8 traditional sense of a direct financial stake which is the  
9 normal situation. The question here is whether it can be  
10 construed as indirect financial stake sufficient to trigger  
11 the specific provisions of the statute as opposed to simply  
12 the over-arching provisions relating to the duty of officers  
13 or even the conflict-of-interest rules.

14 In thinking through it, I have tried to imagine  
15 where the line would be crossed if things like gifts or  
16 benefits provided by the vendor to the company to an  
17 employee rendered a vendor contract a related-party  
18 transaction. So vendors do lots of nice things for clients.  
19 You know, is a really nice dinner enough. Two? Three?  
20 Ten? I don't know when you would find that at some point  
21 the relationship is sufficiently generous that you cross  
22 over from a transaction that might involve breach of duties  
23 somewhere along the line to an actual related-party  
24 transaction triggering all sorts of corporate requirements  
25 of Board approval and the like. I think it is quite a

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1           slippery slope the way the Government is arguing it here.

2                     You know, the rest of the related-party  
3 transactions are, you know, much more straightforward by  
4 contrast.

5                     To give due respect to the statutory language, I  
6 think it has to be more than what is asserted here with  
7 respect to MMP so that the company and the individual has  
8 some objective basis to determine whether Board approval  
9 must be sought for the vendor agreement itself.

10                    The Trump case which the Attorney General makes  
11 quite a lot of is to me quite different. There, involved a  
12 foundation question which made a specific bequest chosen by  
13 the campaign and for which the campaign claimed credit. And  
14 again the Trump case is to me a poor analogy generally  
15 because the Foundation really there is essentially viewed as  
16 a personal asset of the individual. It's much more akin to  
17 an alterego than a vendor/client relationship. There is no  
18 suggestion of that kind of a relationship between Mr.  
19 LaPierre and the MMP people. They are friends. They  
20 obviously -- there is all sorts of, you know, allegedly  
21 lavish benefits that came along with it, but I just do not  
22 see how it squares with the statutory language where you  
23 look for a financial interest in the vendor arrangement.

24                    And separately, even if I thought this would be a  
25 related-party transaction, I would not exercise my

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1 discretion to permit amendment at this late stage to add  
2 this as a related-party transaction against Mr. LaPierre.  
3 It could be against the NRA if it was -- otherwise met the  
4 standard, but the Court has discretion as to whether to  
5 permit amendments to conform to the evidence. They are  
6 permitted for sure, but the Court always has discretion and  
7 especially when it's being done at trial.

8 In my view, the related-party transaction claims  
9 were pled very seemingly, specifically that the NRA there  
10 was a long incorporated by reference list of all sorts of  
11 transactions, and then the claims against Mr. LaPierre and  
12 Mr. Phillips were very targeted to the post-employment  
13 agreements.

14 So in any event -- so this transaction, the MMP is  
15 out both for the NRA and Mr. Phillips. It's just not a  
16 related-party transaction. I don't think a reasonable jury  
17 could conclude otherwise.

18 The other one that was on the list I believe for  
19 Mr. LaPierre was the hairstyling expenses. That one, you  
20 know, I think arguably is a related-party transaction.  
21 The -- although, Mr. LaPierre is not a party to it, I think  
22 there is at least reasonable inference that he gets a  
23 financial benefit out of certain expenses being paid for.  
24 The -- there is certainly an argument that it's not a board  
25 level kind of transaction and that the service was made

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1 available to others, but I don't think the evidence is  
2 conclusive on that, and both sides can argue it to the jury.  
3 But again, as I said before, only as to the claim against  
4 the NRA, I'm not granting an amendment at trial to add this  
5 to the seemingly carefully pled allegations against Mr.  
6 LaPierre personally. So I'm amending the verdict sheet to  
7 move the -- that claim to the chart describing the NRA  
8 claim.

9 And so the only related-party transaction I think I  
10 have left for Mr. LaPierre is the post-employment agreement,  
11 that 2018 amendment I think is what you've pled, and so  
12 that's that issue.

13 Next is Mr. Frazer's arguments with respect to the  
14 Executive Law. I have continued to mull this over reviewing  
15 the arguments, the documents, the statute, and Mr. Frazer  
16 through counsel has argued several times that there should  
17 be some sort of a mens rea element to the claim. I have  
18 pushed back pointing out that there is no precedent  
19 supporting it, but as I've looked, I think that what's --  
20 what's really going to on is -- is that it's just a  
21 reflection that that claim doesn't come up, and there is  
22 just not a lot of law one way or the other as to how to do  
23 it. So I think a deeper dive was required.

24 I conclude when you put everything together that  
25 the proper standard for finding an individual responsible

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1 for an incorrect corporate filing is whether he knew or  
2 should have known that the filing contained material  
3 misstatements.

4 First of all, I did note that the complaint itself  
5 makes that allegation. The complaint says that Mr. Frazer  
6 is named in this claim which I think is the 15th cause of  
7 action based on his certification and pleads specifically  
8 that he knew or should have known that there were  
9 misstatements in the filing. So the AG presumably believed  
10 that was a relevant consideration. But beyond that, the  
11 certification which is really the crux of the claim and is  
12 part of the filing materials attest that the filing is  
13 accurate to the best of his knowledge.

14 So I think when you put all that together, it  
15 provides support that if you're going to hold an individual  
16 certifier liable under the Executive Law which can lead to  
17 things like removal, although not in front of this jury, I  
18 think it's not a strict liability kind of a standard. I  
19 think it has to be that the certification essentially is  
20 also false, and I think the most rational way to apply that  
21 and have some sort of the personal obligation there is to  
22 use the words that the Attorney General used in the  
23 complaint.

24 So I have added a "knew or should have known"  
25 element to the claim against Mr. Frazer in my soon-to-be

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1 revised instructions.

2 I do note that Mr. Frazer has mentioned Section 175  
3 of the Executive Law which references potential injunctive  
4 relief, that is, removal if the individual is "responsible"  
5 for causing the violation. I actually don't think that part  
6 is relevant to the instructions here. The only for-cause  
7 removal claim that the jury is going to be considering based  
8 and all of our pretrial work in my opinion is under the  
9 Not-For-Profit Corporation Law. 706, I think it is. And  
10 that's the only one that's in the instructions.

11 This jury is not going to be asked whether there is  
12 cause for removal. I think that is a phase two issue. If  
13 the jury finds that he violated 172, then I think it would  
14 be up to me to determine whether that remedy which is a  
15 non-monetary remedy applies.

16 So the third thing I wanted to tell you -- so  
17 that's that. I -- after hearing the testimony yesterday and  
18 then also doing some cross checks to make sure that the  
19 instructions and the verdict form were consistent, I noticed  
20 that we didn't have an instruction about how to provide a  
21 credit for repayments made by Mr. LaPierre as part of the  
22 damages analysis.

23 The first thing I did in the damages analysis, by  
24 the way, is include the traditional language which I didn't  
25 have it in there. The fact that I'm giving them a damages



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1 instruction doesn't mean they should find damages. That's  
2 sort of standard language. But as to the credit here, what  
3 I have drafted in substance, and I just wanted to give you  
4 notice since it's not something you've seen before, and I  
5 think you'll see why based on the testimony yesterday I feel  
6 like it's worth explaining. Here's what I have.

7 During the course of the trial, you have seen and  
8 heard evidence regarding payments made by Mr. LaPierre to  
9 the NRA with respect to prior transactions or events.

10 If you find Mr. LaPierre liable for damages on any  
11 claim, you must determine whether and to what extent he is  
12 entitled to a credit for amounts he has previously repaid to  
13 the NRA to compensate for such damages.

14 Mr. LaPierre bears the burden of proving  
15 entitlement to such a credit. To be entitled to a credit  
16 against damages awarded in this case, Mr. LaPierre must  
17 prove first that a payment was made; second, Mr. LaPierre  
18 must prove that the payment compensated the NRA for some or  
19 all of the damages for which you found him to be liable.

20 For example, if you found Mr. LaPierre liable with  
21 respect to a transaction occurring on January 1, 2018,  
22 payment made by Mr. LaPierre to compensate the NRA for  
23 losses sustained in connection with that very transaction  
24 can be subtracted from your damages award in this case.  
25 That would avoid the NRA obtaining a double recovery.

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1           On the other hand, if Mr. LaPierre's previous  
2           payment was made to compensate the NRA for a different  
3           transaction occurring on say January 1, 2013, that is prior  
4           to the relevant period and not part of your verdict in this  
5           case, he would not be entitled to a credit for that payment  
6           against damages sustained in the 2018 transaction.

7           In that situation, awarding full damages for the  
8           2018 transaction would not be a double recovery by the NRA.  
9           That's the end of that.

10           I have already had instructions saying that, you  
11           know, you can consider prior repayments and the like as part  
12           of the good faith and all of that, but this is just in terms  
13           of damage calculation. It just seems to me they need to  
14           understand it's not -- you know, let's say it's a million  
15           dollars. You just don't lop a million dollars off of what  
16           they award. There has to be a connection between the  
17           damages awarded and the amount repaid. So I thought that  
18           was a missing piece that I added.

19           Final thing, I received a formal request for jury  
20           instruction from Mr. LaPierre's counsel this morning, and I  
21           think as required, I need to give you an answer before the  
22           closing arguments.

23           I'm denying the request for this jury instruction  
24           which again to be clear, I understand why you did it in  
25           writing because that's what the statute talks about. These

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1 are all consents that I have seen in comments to the  
2 instructions. I'm going to continue to adhere to the --  
3 with respect to describing what the duty is under the  
4 statute, I think my proposed instructions just faithfully go  
5 through what the statute requires, and I think the  
6 references to other concepts that are not in the statute  
7 really would not be appropriate to add.

8 So you've made your record. You have asked for  
9 that instruction. I'm going to adhere to the instruction  
10 that I have now circulated a few times and will circulate  
11 again this morning.

12 Okay. I think those are the preliminaries I had.  
13 And as I said, hopefully, we will circulate to you what I  
14 consider the final instructions. I will certainly listen if  
15 somebody has a comment or objection with respect to  
16 something new that has been added. I do not need to hear  
17 the same comments that were made. If I didn't accept them,  
18 don't assume that it's that I didn't know about it. I  
19 considered it and I rejected it or I accepted many of them  
20 including for the NRA's benefit. There was a -- I took out  
21 the parenthetical reference to members, and I think I added  
22 that and hadn't really thought it was controversial, but  
23 since it is, I took it out. But there are all sorts of  
24 other things that you'll see, but I took a lot, and I didn't  
25 accept all of them.

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1           So I assume in terms of the allocation of time,  
2 first of all, have you all agreed who is going first, second  
3 third and fourth. I don't need to to mediate that.

4           MR. CORRELL: Your Honor, I don't know that there's  
5 been agreement, but I think we should follow in reverse  
6 order. That's how I am planning to present.

7           THE COURT: Well, look, I don't think there is a  
8 rule. I just -- I don't want to scrum running up to the  
9 microphone so.

10          MR. CORRELL: There is a rule.

11          THE COURT: Well, the rule is plaintiff and  
12 defendant inverted. It doesn't talk about within  
13 defendants.

14          MR. CORRELL: It actually does, your Honor.

15          MS. ROGERS: Your Honor --

16          MR. CORRELL: It says in the reverse order of the  
17 presentation, and it says each party shall have the right,  
18 so it really turns it over on its head.

19          THE COURT: All right. Well, that's fine with me.

20          MS. ROGERS: If I may suggest something. I think  
21 the only two parties with significant demonstratives are the  
22 NRA and the Attorney General.

23                 We had discussed exchanging those last night, but  
24 we weren't able to reach an agreement on when so we still  
25 have not, and we need to both update them I suspect to

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1 reflect the verdict form changes. So the NRA would be happy  
2 to go last among the defendants which would give us time to  
3 exchange.

4 THE COURT: That would happen under Mr. Correll's  
5 thinking also.

6 Look, I guess it makes sense if you want to do it  
7 that way. In terms of the allocation, I put 45 across the  
8 board for each. I said I was -- if the parties wanted to  
9 have it divided up differently, I would do that. But are  
10 you keeping with 45 each?

11 MR. CORRELL: I'd like my 45, your Honor.

12 THE COURT: Okay.

13 MR. CORRELL: I may not use it all.

14 THE COURT: Then what was the order then? It's  
15 going to be -- is it Frazer first? Is it the way you're  
16 sitting; Frazer than Phillips?

17 MR. FLEMING: It appears that way.

18 THE COURT: Frazer, Phillips, LaPierre, NRA and  
19 then AG.

20 All right. I assume you'll be keeping track of  
21 your time. I will be doing it too. We have -- you know, I  
22 don't know if you want a five-minute warning from me or not.  
23 I don't know if you have some other way of keeping track of  
24 what you're doing.

25 MR. FLEMING: I would like a five-minute warning in

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1 case I lose track.

2 THE COURT: I will do my best. If I don't, somebody  
3 from the side can throw something at you.

4 All right. Everyone else ready to go?

5 All right let's get the jury. I will mention the  
6 fact there are three claims that have been narrowed.

7 MS. CONNELL: With regard to the removal claim, I  
8 think this is not in the charges or the instruction; but  
9 would it be okay if the State made reference to the fact  
10 that the scope and length of any removal will be determined  
11 by the Court?

12 MS. ROGERS: I think if we utilize that, then the  
13 NRA would want the ability to suggest that this is not just  
14 a finding of their cause. This is a finding of these people  
15 being kicked out of their jobs.

16 THE COURT: I think it's better not to leave it to  
17 them to speculate as to what's happening next. We haven't  
18 really talked about them having a second phase. Nobody knew  
19 about that. I think it's clear enough the way it is  
20 recommending cause removal is accurate.

21 MR. CORRELL: I object to the inclusion of a  
22 determination of whether there was cause for removal of Mr.  
23 LaPierre. He's gone. I think the element of -- one element  
24 of that cause of action is that you actually be an officer.

25 MS. CONNELL: Your Honor, the other thing, and I'm

1           sorry to bother you, the last thing. There's been a lot of  
2           talk about dissolution in the NRA.

3                        Could the Court make clear that that's not an issue  
4           in this trial?

5                        THE COURT: That's -- I had planned on saying that.  
6           I'll make that as part of the same discussion with  
7           narrowing, but I'll just say that you have heard about that.  
8           It was in the case originally. It's no longer in front of  
9           you. It's no longer in the case.

10                      MR. CORRELL: Yes, but your Honor, Mr. LaPierre --  
11           I'm entitled to talk about it as one of the circumstances.

12                      THE COURT: Yes. The reason I let that stuff come  
13           in is because it's -- it became relevant to decisions that  
14           were made at a time when it was in the case. So it was just  
15           part of the factual story. But I think they may not know  
16           that it's no longer in the case.

17                      All right. Let's bring them in.

18                      THE COURT OFFICER: All rise. Jury entering.

19                      (Whereupon, at this time the jury entered the  
20           courtroom.)

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22  
23  
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1 COURT OFFICER: All rise, jury entering.

2 (Whereupon, at this time the jury then entered the  
3 courtroom.)

4 THE COURT: Good morning, everyone. Please have a  
5 seat. We got here almost about when I thought we would get  
6 started.

7 So, starting this morning and throughout the day  
8 you're going to be hearing closing arguments. As I  
9 mentioned during opening instructions, just remember closing  
10 arguments are not evidence, the arguments of counsel. All  
11 the evidence is in now and admitted and in front of the you.

12 A couple of the notes on the scope of the case. It  
13 happens a lot during trials and cases, frankly, that claims  
14 start narrowing, and there's a couple claims that were --  
15 have been narrowed and are no longer in front of you.

16 There were claims against the individual defendants  
17 under two different statutes. One was the -- is the  
18 Not-For-Profit Corporation Law and one is the Estates,  
19 Powers and Trusts law. And at this point now, since  
20 essentially they were charging the same conduct and seeking  
21 mostly the same things, I've concluded that it can just be  
22 the claim under the Not-For-Profit Corporation Law; and the  
23 claim under the EPTL as to the individual defendants no  
24 longer is going to be in front of you. From your  
25 perspective, all that does is make the jury verdict form



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1 shorter. And, so, since you heard about that, those claims  
2 in the openings, I didn't want you to be confused when you  
3 didn't hear about them in the closings.

4 The EPTL claims still exist as to the NRA, but not  
5 as to the individual defendants; and the individual  
6 defendants still have claims under the Not-For-Profit  
7 Corporation Law, and then there's one claim under the  
8 Executive Law, which we'll get to when we do the  
9 instructions.

10 Another thing, during the course of the trial there  
11 was reference to a dissolution claim to dissolve the NRA.  
12 That was in the original complaint back in 2020. It no  
13 longer is. So, that is not in the case. It is nothing for  
14 you to -- nothing for you currently to think about. It is  
15 part of the story. So some people have brought it up during  
16 the course of the trial to explain various things that were  
17 done, but it is not in the case.

18 So, you know the claims that are in the case and  
19 that is not one of them.

20 All right, and, again, just a reminder that we  
21 have the flexibility to go past five today to five-thirty or  
22 so. I suspect we'll need to do that.

23 MR. CORRELL: Your Honor, if I just may request  
24 that you also instruct as to the other claims that are no  
25 longer in the case that went out with the dissolution

## Defendant Summation/Mr. Fleming

1 claims; in particular, the unjust enrichment claim?

2 THE COURT: The only reason I'm meaning the  
3 dissolution is because it came up, and the other claims did  
4 not. During the course of a lawsuit claims come and go, and  
5 so all you need to worry about is what's in the case now.

6 All right, we're going to -- with closing arguments  
7 as I mentioned, we're going to do it in reverse order of  
8 what you heard in the beginning of the trial.

9 So, we're going to start this time with Mr. Frazer.

10 THE COURT: All set. Mr. Fleming, you may start.

11 SUMMATION BY

12 MR. FLEMING:

13 MR. FLEMING: Good morning. I guess it is true  
14 that the last shall be first after all.

15 As you know, I'm standing up for John Frazer. I  
16 don't know that there's anymore to say that hasn't already  
17 been said. I, also, don't know whether you want to hear,  
18 quite frankly, anything further.

19 You've heard it all. I've watched you listen  
20 attentively, impressively. For this, speaking for John and  
21 myself, I can only express our sincere thanks. You're doing  
22 a great thing. You're sitting to judge a person in a  
23 critical moment of his life.

24 In the beginning of the case I ventured a  
25 prediction. I said I recognized how annoying and what an

**Defendant Summation/Mr. Fleming**

1 imposition this is, an extraordinary one, six weeks,  
2 six weeks; but I said -- and I may be wrong, I may be  
3 presumptuous -- but I said that you would grow to value this  
4 experience. You'll remember it. It will be important to  
5 you because a great thing has been requested of you.

6 It is incredibly important to John Frazer and his  
7 family. You've sacrificed six weeks of your life to listen  
8 to a case brought by the Attorney General of the State of  
9 New York against John. So, what you're being asked to do is  
10 bigger than yourselves and that makes it great.

11 Now is the time for the case to be yours. I have  
12 tried my best to show you John Frazer's unrelenting good  
13 faith in the affairs pertaining to the National Rifle  
14 Association. I've tried to clarify issues for you. I hope  
15 you think that that's true. I've tried to explain why  
16 plaintiff's case has no merit against him and why you should  
17 return a verdict in John's favor.

18 But now the case is being given to you at last, and  
19 I ask and I know that you will give it the great care it  
20 deserves.

21 So, this is the last time I will get to speak on  
22 behalf of John. The plaintiff gets to go last here. Those  
23 are the rules and they may raise things I have no  
24 opportunity to speak to or rebut, so I need you to do me a  
25 favor. I need you to keep our invoice in your head. I need

**Defendant Summation/Mr. Fleming**

1       you to make them explain things to you. I believe we had a  
2       factual response to everything they raised, but now we won't  
3       have that opportunity to do that anymore.

4               So, I need you to carry us with you; and when or if  
5       they raise something, okay, think what we would say, think  
6       how we would respond to it because every time they raise  
7       something, there was an answer.

8               Now, I told you in the opening to use your common  
9       sense, your other natural gifts, your experiences to  
10      analyze, think, scrutinize everything. Judge the facts of  
11      this case using your gifts is all we need. It's all we  
12      need. Use your natural reason and your judgment and that  
13      will be plenty for us.

14              Now, plaintiff -- I think you know this, but I'm  
15      emphasizing this -- they have the burden of proof. Ask  
16      yourselves have they proven their allegations? I told you  
17      in the beginning of this case, six weeks ago, there's one  
18      issue in this case we believe: Good faith.

19              Did John Frazer act in good faith and use  
20      appropriate care? More precisely, the plaintiff has the  
21      burden of proving to you, proving to you that John Frazer  
22      has failed to discharge the duties of his office in good  
23      faith with the care an ordinarily prudent person in a like  
24      position would exercise under similar circumstances; have  
25      they proved that? Have they come even remotely close to

**Defendant Summation/Mr. Fleming**

1 proving that?

2 I submit that the evidence in this case establishes  
3 that John has acted at all times, at all times in the best  
4 interest of the organization he serves. I submit there is  
5 no evidence that he has acted in his own interest and that  
6 he has subordinated the interest of the organization to his  
7 personal interest.

8 You've heard this evidence, everything. You've  
9 seen John. John Frazer is the walking embodiment of good  
10 faith; and, yet, we're still here fighting an adversary that  
11 you heard publicly alleged that he used the NRA for his  
12 personal gain without any evidence and, indeed, contrary to  
13 fact and in the process destroyed valuable relationships,  
14 personal and work relationships and still now wants you to  
15 remove him from his job and livelihood and take away every  
16 penny that he richly earned.

17 I was struck yesterday, yesterday, that we still  
18 see this instinct, this opposition to what seems clear to  
19 me.

20 It was in the questioning yesterday, which you all  
21 heard, where the plaintiff seemed to be challenging  
22 Mr. Frazer that whether he was telling the truth about his  
23 attendance at the September 2016 Audit Committee meeting.  
24 He was there. He testified. Ms. Rowling testified that  
25 way. Mr. Cotton said that these transactions were all

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1 approved in 2016. John, of course, was an eyewitness  
2 present there and, yet, he was being questioned as if he's  
3 just making it up and this was all because his name wasn't  
4 recorded on a document having been there that someone else  
5 had written. Even though, as you know, he had orchestrated  
6 the very policy, the conflict-of-interest policy that was  
7 passed in January 2016, which enabled these Audit Committee  
8 considerations of related-party transactions; and even  
9 though the testimony was clear that he presented to the  
10 Audit Committee all of these related-party transactions; and  
11 even though Ms. Rowling said she was present, and even  
12 though she said and John said and Mr. Cotton said they took  
13 place and that she, Ms. Rowling, finalized the minutes that  
14 Mr. Frazer had put together.

15 This was uncontroversial testimony. It had already  
16 been established and, yet, there was this pushback.

17 Now, if it was to suggest that Mr. Frazer doesn't  
18 deserve credit for his work in helping these related-party  
19 transactions to be considered by the Audit Committee, that's  
20 fine. John is not interested in credit. He doesn't even  
21 want credit. If you asked him, he'd probably deflect  
22 credit; but fairly all he wants is not to be accused of not  
23 acting in the best interest of the NRA because that would  
24 not be true.

25 So, if plaintiff wants to give credit to someone

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1 else for this undoubtedly positive development, so be it,  
2 fine. Let them have that.

3 The important point is that it happened. It was a  
4 positive development for the organization and that  
5 Mr. Frazer supported it and worked to help make it happen.  
6 He told you the Audit Committee's intent at that time was to  
7 ratify old contracts. You heard this. These were contracts  
8 created 2008 or earlier, well before the law changed that  
9 occurred and to approve them going forward.

10 And you'll remember, I sat up here and struck out  
11 time after time after time trying to get this document into  
12 evidence so that you, the factfinders, would have a fact  
13 that you could consider and should consider. I was opposed  
14 every step of the way.

15 Meanwhile, while they're fighting me to keep this  
16 document out, there is this counterfactual, non-reality  
17 suggestions taking place that these transactions weren't  
18 approved until 2017 at the earliest from Ms. Froman. That  
19 Mr. Butz had not been approved in advance until 2019. And  
20 there's even one time when I was asking Mr. Hines trying to  
21 get the document in through him and was unsuccessful, they  
22 got up and said -- I'll tell you they said, disclosing  
23 amounts someplace else within this 990 was not the same as  
24 having the NRA's Audit Committee approve a related-party  
25 transaction in advance; and, meanwhile, they had all the

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1 documents showing that that's exactly what had happened.

2 So, yesterday, I was struck with this question.  
3 What does this say about their case? They brought a case  
4 seeking the corporate death penalty, and they included John  
5 Frazer sight unseen -- never spoken to before -- in a  
6 massive filing; and now it appears they're fighting to keep  
7 facts from you, the factfinders, the sole reason you're here  
8 for six weeks is to find the facts and they're trying to  
9 keep facts away.

10 Is this now their case who? Has the good faith  
11 here?

12 I don't want to bore you, so I'm going to go  
13 quickly through stuff I think you know so well by now.

14 In 2014, the new law was passed. In 2015, John was  
15 hired. In 2015, that first year he worked to create a new  
16 policy which would bring the organization in compliance with  
17 the law, he did so. It was passed by the board in  
18 January 2016.

19 The plaintiff, themselves, say that the policy is  
20 comprehensive, and it covers conflicts of interest more  
21 broadly than were required by New York law.

22 Those are unchallenged facts.

23 He also in 2015 started to enhance the  
24 questionnaire for the self-disclosures that is required by  
25 directors and others to disclose potential conflicts of



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1 interest that can then be considered by the Audit Committee  
2 and the board.

3 He, also, in that year began working with the  
4 accountants, the internal accountants -- if you'll recall --  
5 to develop this crosschecking system because the accountants  
6 knew whoever was paid money out of the organization and if  
7 they recognized the name of a director, let's say, who  
8 hadn't disclosed on the financial disclosure questionnaire  
9 that he had a transaction, the accountants knew him, would  
10 say, John, look Director X got a payment you might want to  
11 look into it. He worked to do these things. Good faith.

12 We saw after the January 2016 policy was adopted by  
13 the board immediately. At the March 2016 Audit Committee  
14 meeting, the Audit Committee for the first time considered  
15 these related-party transactions.

16 There's an Audit Committee report at JFX 52. I'm  
17 just going to give you numbers. I just can't burden you  
18 with too many documents. You've seen them all already. I  
19 trust you'll remember these. That said in March that they  
20 cleared the underbrush. They got rid of those transactions  
21 that qualified for exceptions; and they deferred, if you  
22 remember, the more substantial transactions to our next  
23 Audit Committee meeting in September. That's what it said.

24 That in September, not surprisingly, this is the  
25 document we preferred to get in, they considered these

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1 transactions; and they voted to approve them as fair,  
2 reasonable and in the best interest of the NRA in compliance  
3 with the legal requirement. That Document was PX 2586.

4 They also met in December 2017 which I showed you.  
5 That's document JFX 66A. That's where there was a 2017  
6 transaction that had been entered into by Mr. Keene. You  
7 may remember David Keene. Mr. Frazer found out about it in  
8 the late fall, brought it immediately to the Audit Committee  
9 and they voted to ratify that transaction.

10 Quick footnote: Mr. Frazer also explained that in  
11 the early years because of his reading of this -- the bible  
12 for parliamentary procedure called Robert's Rules of order.  
13 He interpreted that a committee of the board should decide  
14 what it decides. It can keep minutes of the details of what  
15 they do, but they need not burden the record for the board  
16 with all the detail. Robert's Rules said that. It says --  
17 what he testified to is that it said tell the board what was  
18 done, not what was said. And that's what they did.

19 So, for two years they had minutes and a report.  
20 The Audit Committee had Audit Committee minutes and an Audit  
21 Committee report, and the report would go to the board and  
22 it didn't include the detail that was in the minutes.

23 That in 2018, as you all saw, it changed. They  
24 decided to merge the two documents. No longer were there  
25 minutes and a report. It was one document, a report that

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1 had the detail, straightforward.

2 Now, I just talked about the early years, 2015,  
3 2016, Mr. Frazer's first two years in this position. This  
4 was before the 360-degree review that you've heard about  
5 that Mr. LaPierre ordered when he found out that the organs  
6 of New York State Government were aimed at the NRA. He said  
7 he wanted a full evaluation of the organization's policies  
8 and procedures, turning over every rock.

9 But even though what I've told you about of the  
10 earlier years, which may not even come into consideration  
11 with you with the work you need to do for some of these  
12 claims, they're still important. Because they're important  
13 to an evaluation of John Frazer's good faith. They're  
14 important to his reputation, to his good name. It matters  
15 to who he is as a person. It does, because he does things  
16 the right way and always has. That's why these charges are  
17 so unfair.

18 You've heard the expression, no doubt, that  
19 character is what you do when no one is looking. I say it  
20 is no less true that good faith is what you show about your  
21 priorities when no one is looking; and in 2015 and 2016, the  
22 man was doing his job and doing it well.

23 In -- it wasn't until 2017 that all of a sudden it  
24 was a concern that outsiders are looking at this  
25 organization.

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1           In those early years, and in those later years, as  
2 always was, John's priority -- singular -- priority was the  
3 best interest of the National Rifle Association. There's no  
4 evidence to the contrary. Proved it over and over and over  
5 again.

6           Again, I'll go quickly. Compliance training  
7 seminars, they instituted those. In his own words, he  
8 hammered, quote/unquote, people to improve responsiveness  
9 and timeliness. Before, people weren't always disclosing,  
10 okay.

11           The plaintiff says to Mr. Cotton when he testified,  
12 "You were getting this through John Frazer." Mr. Cotton  
13 says, "No, you've got it wrong. John didn't know about it  
14 because people weren't disclosing."

15           So, they did these seminars, hammered people. They  
16 are hat a hundred percent now and have been for awhile.

17           Ms. Rowling testified. I asked her, Are these  
18 compliance seminars helpful? She said they have resulted in  
19 getting, quote, a lot more questions now from people based  
20 on those seminars of what's appropriate or what's not,  
21 including from board members. They call me directly. Good  
22 faith.

23           You may have noticed all the plaintiff's objections  
24 to introduction of evidence. Hopefully, you noticed how few  
25 objections came from us. What does this say about the --

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1 their confidence in their case? You're the factfinders.

2 You need the facts. We welcomed the evidence.  
3 Innocent men are calm. Innocent men are not tense. We have  
4 nothing to hide. Do they? It is a fair question.

5 So, I'll move on. 2017, Mr. LaPierre orders his  
6 360-degree review. The new treasurer, you remember  
7 Mr. Spray, you've heard him a couple of times -- testified  
8 that Mr. Frazer was a good partner whose work on the  
9 360-degree review was, quote, a big help in getting us  
10 forward.

11 In July, 2018, you heard about a group of  
12 whistleblowers from the NRA Financial Services Division,  
13 internal accountants coming forward with issues that they  
14 called their Top Concerns. Let's look at evidence of this.

15 You saw Mr. Frazer met with those whistleblowers.  
16 The whistleblowers were going to an Audit Committee meeting  
17 on July 30th. They were nervous about it. They made their  
18 presentation formally to the Audit Committee on July 30,  
19 2018. Mr. Frazer met with them beforehand.

20 You saw a document, JFX 13. You saw the Document.  
21 One of the relationships they listed in their Top Concerns  
22 was called an arrangement called Grassroots Behavioral. At  
23 that meeting before July 30th, John Frazer said, Don't make  
24 anymore payments to Grassroots Behavioral. You saw the  
25 document.

1           After the July 30th Audit Committee meeting,  
2 immediately after, that night two of the Audit Committee  
3 members, as you recall, had to leave early because they had  
4 flights. John was the one gathered up the notes, gathered  
5 up the key information, put it in a FedEx package, sent it  
6 out that night to both of them, followed up with phone calls  
7 with them to brief them on what had happened.

8           Ms. Rowling and Mr. Erstling, who you'll remember,  
9 both of the whistleblowers testified Mr. Frazer was active  
10 and attentive to their concerns. As you heard in abundance,  
11 Mr. Frazer played a supportive, if not instrumental and  
12 central role, in the followup to that whistleblower event.

13           He worked with Craig Spray who as I said called  
14 him a great help. He did not call him a great hindrance.  
15 He did not call him an obstacle. He said nothing of that  
16 sort.

17           The point I'm making is that John Frazer is not  
18 acting in bad faith. He's not opposing improvements of the  
19 organization. He's not protecting the status quo. He's  
20 helping. I'm not here to argue that John should be put on a  
21 pedestal, that he should be given a medal for any of that  
22 that he's responsible for all this, I'm not arguing that.

23           (Continued on next page)

24  
25

**Defendant's Summation/Mr. Fleming**

1           MR. FLEMING: I am arguing that the man has acted  
2 his whole life in good faith, and it's true in this case  
3 because there is no evidence to the contrary.

4           Whistleblower Mike Erstling testified that Mr.  
5 Frazer spearheaded compliance and related-party  
6 transactions. You heard the testimony. He characterized  
7 John's role in the improvements at the organization as  
8 "pretty significant". He said "I believe Mr. Frazer has  
9 been a great partner for me. You know, I've worked with  
10 him. I've conducted compliance seminars with him. He's  
11 helped me tremendously on the 990 and the 990T which I've  
12 just taken over. So his review on these matters has been  
13 excellent." That's a whistleblower talking.

14           There's is been evidence of Mr. Frazer helping  
15 investigate Ackerman McQueen. You have heard about all  
16 this. Okay. I don't know what we want to call it. That  
17 was the cancer that needed to be cut out. And who was  
18 helping? John Frazer was helping to do it. Again, playing  
19 a key role. He hired a forensic accounting firm FRA to look  
20 into the out-of-pocket expenses that you've heard so much  
21 about.

22           As we saw with Mr. Hines, I stood there and took  
23 you through the graph. The MMP expenses began to be  
24 controlled almost immediately after that July 2018  
25 whistleblowers meeting. And ultimately in 2022 when they

**Defendant's Summation/Mr. Fleming**

1           were able finally to renegotiate a new contract, those  
2           expenses started to decrease.

3                       Mr. Hines admitted in 2019 when unfavorable  
4           articles began to be released about the NRA, probably from  
5           Ackerman McQueen, but it doesn't matter, the testimony and  
6           the evidence is that John began immediately to investigate  
7           all of the issues raised in these articles, that he was  
8           working with the Audit Committee chairman Mr. Cotton on  
9           this, that he kept a list of investigations and their status  
10          and spoke to him about it. Good faith. Good faith.

11                      So you've also heard about his treatment of  
12          internal complaints because the NRA -- and you heard it from  
13          Mr. Cox was going through a change, a very chaotic change.  
14          There was a lot going on.

15                      So first, Lieutenant Colonel Oliver North; okay.  
16          You saw him testify. You've heard so much about this, and  
17          mention of Mr. North should be -- should include a man named  
18          Richard Childress because they basically signed all the  
19          letters together.

20                      Okay. So though president of the NRA, Mr. North  
21          had an undeniable conflict of interest. No question about  
22          it. He was employed by Ackerman McQueen, the NRA's biggest  
23          vendor, and the NRA and John were trying to get to the  
24          bottom of that to find out what his relationship -- what his  
25          contract really was all about, and you heard so much about



**Defendant's Summation/Mr. Fleming**

1 it. It took like nine months to get the contract, and it  
2 was John who was pursuing it. He was trying to satisfy his  
3 duty to determine the extent of a conflict of interest.  
4 Even though this was the NRA president. I don't think that  
5 point could be emphasized enough. Okay. It doesn't matter  
6 that it was the NRA president. He had a conflict, and John  
7 was pursuing it. Good faith.

8 So the evidence establishes irrefutably that the  
9 very day that John was finally going to see this contract,  
10 February 26, 2019, as seen in the email between John and  
11 Ackerman McQueen's lawyer, okay, which is JFX 118 -- you'll  
12 remember the testimony. Ackerman wouldn't show the contract  
13 to NRA without Mr. North's approval. North wouldn't show  
14 the contract to the NRA without Ackerman's approval. It  
15 went like that for nine months. You remember this.

16 So on February 26, finally is the day he is going  
17 to get the contract. On that day within hours of John  
18 seeing this contract, Mr. North issues a complaint that the  
19 Brewer Law Firm had not been properly engaged by the NRA  
20 because the NRA had not followed to the letter its  
21 procurement policy. Okay. Didn't get signatures and things  
22 of that nature.

23 So what does John Frazer do? Putting all  
24 reasonable suspicions aside that maybe Mr. North is not  
25 being genuine in his complaint given the timing, puts that

**Defendant's Summation/Mr. Fleming**

1 all aside, treats it like any other complaint immediately  
2 with seriousness. That day or maybe the next day he engages  
3 a law firm to give an opinion about whether the NRA's in  
4 violation of its policy. Taking it seriously. Responding  
5 immediately.

6 Do we recognize a pattern yet? Within 23 days, the  
7 outside law firm specialist issued its legal opinion which  
8 resolved the issue. It confirmed that the Board had in fact  
9 approved the engagement because it knew about it. It had  
10 paid under it. It had essentially ratified and waived any  
11 -- any violation of the policy. So that issue was resolved.

12 Now, this is important. The law firm also in its  
13 opinion provided guidance to Mr. North. You want to get rid  
14 of the Brewer Firm? Here's how you do it. You go to a  
15 committee of the Board which you are the president. You can  
16 call on 48-hours notice and you can get it done. He never  
17 did it.

18 Instead of taking that principle path, he starts to  
19 complain about the size of the Brewer bills. And you  
20 remember Ms. Froman. She spoke to Mr. North and she said he  
21 was like a robot. He just kept saying, they are too high,  
22 they are too high. And she kept saying, well, why do you  
23 say that? He said, they are just too high. So she started  
24 to discount him.

25 Now, lastly, I will tell you that same February 26,

**Defendant's Summation/Mr. Fleming**

1       2019 date, John Frazer did something else. He sent an email  
2       to Mr. North, and he said, you want to see the bills? Here  
3       are the bills. They are in my office. The ones you don't  
4       have a conflict on, come see them any time. Guess what?  
5       Those bills are still there. He never came.

6               Now, maybe Mr. North was enlisted by Ackerman to do  
7       its bidding. John learned when he saw the contract that  
8       North had a superior obligation of loyalty to Ackerman than  
9       he did to the NRA. And Ackerman was certainly incentivized  
10      to salvage this lucrative relationship, and you may find  
11      they were nasty enough to do it in the way that they did it.  
12      Whatever the reason, Mr. North's behavior shows it was never  
13      a serious complaint. And even if it was, John Frazer  
14      responded as he would to any real complaint the same way as  
15      he does with all things. It's good faith.

16             Now, you heard Mr. Cox. He explained all that, and  
17      it's really sort of simple. Ackerman was unhealthy in his  
18      words. They were untouchable in his words, and the Brewer  
19      firm was clearly at odds with Ackerman. So there was this  
20      tension. And as I asked him, the untouchable, the unhealthy  
21      was finally being touched and helped and brought back to  
22      health. The cancer was being cut out, and it's really that  
23      simple. But there is a lot of fallout from things like that  
24      including this case because this is what engendered all of  
25      the news articles. This is what engendered the

**Defendant's Summation/Mr. Fleming**

1 investigation. All of it.

2           Anyway, I'm getting off this topic in a second.  
3 The Brewer invoices were a non-issue anyway because even  
4 though Mr. North was complaining about it, John knew and had  
5 already orchestrated a way that these things be reviewed.  
6 He was reviewing the bills for reasonableness. Craig Spray  
7 was reviewing the bills for reasonableness, and there was  
8 even the insurance company that was reimbursing a portion of  
9 these legal bills that hired -- the insurance company hired  
10 their own lawyers to look into this. The insurance company  
11 which we all know -- we all know insurance companies. You  
12 pay them. You make a claim and then they are nowhere to be  
13 found. Right. Same thing here. They have every incentive  
14 not to pay. They even went to the expense of hiring a law  
15 firm to review these bills. No doubt to try to cut them.  
16 Even they reimbursed them almost in their entirety.

17           You heard about how this whole story ended with Mr.  
18 North's extortionist demand, and he declined again to run  
19 for president of the NRA. So there were other complaints.

20           Plaintiff likes to call them whistleblower  
21 complaints. I don't think they are whistleblower  
22 complaints. Within weeks of these newspaper publications  
23 which John was already investigating, as I told you, and as  
24 the documents said and as the witnesses said, directors  
25 started raising this stale information. These news article

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1           come out in or around April.

2                       In June or July, directors are raising questions  
3           about what is in these news articles. This is public  
4           information. This is not new. And you heard about all  
5           these things.

6                       You saw Ms. Schneider get up here. You know, she  
7           represented apparently a group of directors that were trying  
8           to find out what this information or, you know, about the  
9           allegations made in these newspaper articles. John, she  
10          said, we're being stifled. Our information is being  
11          stifled. It's not being sent to where it needs to go. John  
12          takes it and sends it to the highest level of the  
13          organization, to the president and two vice-presidents.

14                      In fact, she admitted that. She also says, Can I  
15          talk to you. John calls her. They speak for 40 minutes.  
16          He explains to her that he is looking into all these things,  
17          that there is a process, that they are undergoing it. She  
18          didn't want to hear it. She wanted to be argumentative.  
19          That's his testimony. But is this stifling of information  
20          or is this responsiveness by a person who acts the same way  
21          all the time? All the time.

22                      So in the end, Ms. Schneider conceded that Mr.  
23          Frazer was a lovely man and admitted that she voted for him  
24          every time. And so I don't know. You guys are the fact  
25          finders. I will leave that one to you to try to figure out.

**Defendant's Summation/Mr. Fleming**

1           Okay. You remember Mr. Rocky Marshall. This is  
2           Mr. Marshall who, you know, is a very sure-of-himself  
3           person. He would figure it out. He would fix the NRA after  
4           a quick review of boxes and boxes of data which guess who  
5           sent it to him on request. John.

6           Then later -- and by the way, Mr. Marshall was a  
7           director for all of about nine months. But later when John  
8           delivers news to the directors, the happy news that they  
9           have secured directors' and officers' insurance even in the  
10          face of this case, Mr. Marshall is impatient. He wants to  
11          review that document right away. And John tells him two  
12          things.

13          He says, first, our internal policy and direction  
14          from above, from his bosses, the directors is that you've  
15          got to come to headquarters to view financially sensitive  
16          documents. And as John testified, Mr. Cotton had told him  
17          that this is a financially sensitive document, and you have  
18          got to make sure that people come and view it. That's point  
19          one. Point two, he tells Mr. Marshall I don't have the  
20          policy yet. Nevertheless, there is an email. Mr. Marshall  
21          writes back, and you can see it. That's unacceptable. Let  
22          me move quickly.

23          So you know, long story short. Mr. Marshall files  
24          a ethic complaint against John before he's even gotten that  
25          insurance policy to show it to him. John it brings to the

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1       Audit Committee meeting in Charlotte. Mr. Marshall who says  
2       that he was horrified that in an age of Covid he would have  
3       to fly to Virginia to see that document, he flies to  
4       Charlotte to attend the Board meeting. John brings the  
5       document with him to show him. He never asked for it.

6                Look, you know, I'm running out of time. So let me  
7       just be really quick. There is a false statements charge.  
8       Okay. This is the worst charge of all. There is one person  
9       charged with false statements in this case. One person.  
10       John Frazer. He is not an accountant. He is not -- he is  
11       just a lawyer; and the 990, we went through the painstaking  
12       explanation of how it's put together. Internal accountants.  
13       Outside accountants. Experts.

14               You remember Mr. Sweeney. You remember Steve  
15       Schulman. You remember all of these legends as they are  
16       called who put it together. And Plaintiffs made an  
17       accusation of certain falsities in the 990. I think what we  
18       tried to show you is historically, you know, before John  
19       even got there, it was all treated a certain way. Tax  
20       returns are arcane and these instructions are very  
21       complicated. We took you through the instructions. Like I  
22       said, we have got nothing to hide. We kept showing you why  
23       there were reasons for this business judgment. Okay. And  
24       yet, they charge him, a non-accountant with false statements  
25       in these 990s. It's just not right.

**Defendant's Summation/Mr. Fleming**

1           So look, I am cutting through a lot, but let me say  
2 this. I'll just close. Plaintiff says that they represent  
3 the People of the State of New York, and I submit to you  
4 that's not right because the people of the State of New York  
5 are you. Okay. You are the people of the State of New  
6 York, and I ask you to be great for this moment. Forgive  
7 me.

8           The proper discharge of your duties is justice. It  
9 sounds highfalutin, but it's not, and justice matters to me  
10 a lot. It matters to John, and I believe and suspect and  
11 trust, it matters to all of you too. So we have asked you  
12 to be just in this cause and I'm touched because I have full  
13 confidence from my observations of your attention to which  
14 as I said was so impressive to me. I have confidence that  
15 that's what you'll do.

16           So I thank you on behalf of John Frazer who has  
17 been my honor to represent. I ask you send him home with  
18 his good name and reputation which he richly earned. Do not  
19 send him home in disgrace because he doesn't deserve it. I  
20 ask you to return a verdict in his favor against Plaintiff  
21 because these claims against him are not warranted.

22           Thank you.

23           THE COURT: Thank you, Counsel. What I suggest we  
24 do is maybe a stretch break. We will do two of these.  
25 These are each 45 minutes. Then we will take a full break



## Defendant's Summation/Mr. Fleming

1 after the next one, and then we will do two more.

2 So why don't you maybe get organized for Mr.  
3 Phillips.

4 (Whereupon, at this time there was a pause in the  
5 proceedings.)

6 THE COURT: Okay. Mr. Farber, are you all set?

7 MR. FARBER: One moment.

8 MR. FARBER: Ladies and gentlemen, on behalf of Mr.  
9 Phillips who is sitting right there as he's been for almost  
10 the entire trial, on behalf of my colleagues Ms. Coutu and  
11 Mr. Werbner, thank you for your time and attention over  
12 these past six weeks.

13 What we thought would make sense this morning would  
14 be for me to begin by explaining to you why the evidence  
15 shows that Mr. Phillips did not violate either of the New  
16 York State laws that the New York Attorney General claims he  
17 did, and Mr. Werbner is then going to outline for you why  
18 none of the conduct by Mr. Phillips that the State is  
19 challenging even caused any damage to the NRA. We have  
20 limited time to speak to you as you have seen, so we are not  
21 going to be able to go through every single piece of  
22 evidence or discuss every witness in this long trial.

23 In fact, many of them have little or nothing to do  
24 with Mr. Phillips who as you know retired from the NRA back  
25 in 2018 before much of what is at issue here even occurred.

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1 And instead, what we are going to do and what I am going to  
2 start by doing is to focus on the key points so that you can  
3 see why the State's claims against Mr. Phillips both fail.  
4 And to do that, I want to start by focusing you on what Mr.  
5 Phillips is actually accused of. And there's been a lot of  
6 testimony in this case. And although Judge Cohen will  
7 describe a number of claims against the various defendants  
8 here, there are only two claims left in this case against  
9 Mr. Phillips, and the primary one is that Mr. Phillips  
10 violated a -- allegedly violated his duties to the NRA of  
11 care and good faith.

12 In addition, the State also claims that Mr.  
13 Phillips caused the NRA to enter into what they say is an  
14 illegal related-party transaction by executing a  
15 post-employment contract with him. I'll come back to that  
16 claim later, but I -- first I want to address the breach of  
17 duty claim that I discussed a moment ago. And to start  
18 with, ladies and gentlemen, let me just be clear, and I  
19 think the evidence here has been clear.

20 Mr. Phillips did not breach any duties to the NRA  
21 at any time. He devoted more than 25 years of his life to  
22 that organization helping Mr. LaPierre to build that  
23 organization into what it had never been and whether one  
24 likes its politics or not, it became a far larger, far more  
25 impactful organization when Mr. Phillips left it in 2018

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1 than when he started there in the early 1990's.

2 Now, I said the same thing to you during my opening  
3 but now you've seen the evidence, and I want to go through  
4 that evidence with you and talk about what it shows.

5 And first, I'd like to look at the key transactions  
6 that the State is basing its case on. The first of those  
7 involves MMP. And as to Mr. Phillips, the criticism against  
8 him is that he approved increases in fees beyond what the  
9 MMP contract provided for, and that he did not get all the  
10 proper approvals for those increases. But the evidence is  
11 clear, ladies and gentlemen. From Mr. Phillips' standpoint,  
12 these increases were well worth it. The scope of MMP's  
13 services grew enormously over the years, and I'm going to go  
14 through with you briefly some of the exhibits you have even  
15 seen in this case. You have seen them already, so I'm not  
16 going to spend a lot of time on them. I'm just putting  
17 these up here primarily as reminders. And you will hear you  
18 will have the opportunity to look at any of the exhibits you  
19 want with you during your deliberations, but this is the  
20 memo that was prepared describing the scope of the increase  
21 in services, how MMP's responsibilities grew over time. And  
22 you'll see at the top, the MMP entities now were arranging  
23 all digital marketing for the NRA membership. You see they  
24 expanded. And the third one there, membership acquisition  
25 efforts. It goes on to talk about marketing efforts for the

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1 NRA Office of Advancement's planned giving programs.

2 The second bullet from the bottom talks about  
3 managing the NRA's email list, it's extensive work that  
4 never took place when this relationship began. And the  
5 evidence also showed, ladies and gentlemen -- the undisputed  
6 evidence showed the tremendous value that the NRA got from  
7 those expanded services, the huge fundraising dollars that  
8 MMP brought to the NRA. As Mr. LaPierre testified, in some  
9 years MMP raised more than \$200 million for the  
10 organization. And remember, it wasn't just Mr. Phillips's  
11 view that those increased fees to MMP were justified. You  
12 heard testimony from both Mr. Spray by video and from Ms.  
13 Rowling from that witness stand about how they each reviewed  
14 those increases after the fact, and they also concluded that  
15 they were justified.

16 Now, beyond that, it's important to remember that  
17 Mr. Phillips was not some rogue employee off doing things on  
18 his own in any respect. He approved those increases in  
19 scope and payment for MMP at the direction of his boss Mr.  
20 LaPierre, and Mr. LaPierre himself testified about that, and  
21 this is just an example of the -- from the transcript.

22 You'll see he was asked on several occasions, you  
23 have approved increases in the scope of work for the MMP  
24 entities. Correct? Mr. LaPierre said, yes, we did. And he  
25 said, and when you approved increases in the scope of work

1 for MMP, that would increase the fees that MMP would charge.  
2 Right? And Mr. LaPierre said, correct. I would have  
3 discussions with them regarding the additional scope of  
4 their duties, and then they would talk to our treasurer's  
5 office. In those days that was Mr. Phillips about the --  
6 about how that would increase fees, and Mr. Phillips carried  
7 out what he was asked to do.

8 (Continued on the following page.)  
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## Defendant Summation/Mr. Farber

1 (BY MR. FARBER)

2 But, finally, and perhaps most significantly,  
3 Mr. Phillips got nothing out of this relationship  
4 personally. I mean, there's been a lot of testimony about  
5 free yacht trips that Mr. LaPierre and his family took on  
6 Mr. McKenzie's yacht; but that was Mr. LaPierre, not  
7 Mr. Phillips.

8 The evidence is undisputed that the only trip that  
9 Mr. Phillips took on a yacht of Mr. McKenzie's was this one  
10 here that you're seeing. The one that he paid for with his  
11 own money, this \$25,000 check that he wrote for the race to  
12 erase MS for a yacht trip that Mr. McKenzie donated to that  
13 charity. That's MMP.

14 Let me talk about the second issue for a moment  
15 that the AG's office has criticized, these out-of-pocket  
16 expenses that were billed by Ackerman McQueen. And, here,  
17 the criticism of Mr. Phillips is that he had Ackerman  
18 McQueen bill certain expenses, including some of  
19 Mr. LaPierre's travel as a single line item without  
20 supporting detail. Well, you heard why that was done, too.  
21 There was serious concerns for Mr. LaPierre's safety and the  
22 need for confidentiality about his travel plans.

23 Now, you know, you've heard multiple witnesses talk  
24 about how the NRA's controversial political positions have  
25 created a lot of enemies; and Mr. Supernaugh, when she

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1 testified, told you that it was an organization with  
2 hundreds of employees and there was a legitimate concern  
3 that someone with -- and these were her words -- wandering  
4 eyes would leak sensitive internal information.

5 And she, also, told you in her testimony that the  
6 lack of detail or backup on that invoice wasn't a problem  
7 for the NRA or its Financial Services division because  
8 Ackerman retained all the backup and the NRA could and did  
9 audit it; and you know that that happened because  
10 Mr. Winkler explained to you Mr. Phillips and Mr. Tedrick,  
11 who was acting in Mr. Phillips direction and in later years  
12 NRA lawyer, Steve Hart, all did that, all went and audited  
13 those records, themselves.

14 On top of it, here, too, there was nothing in this  
15 for Mr. Phillips personally, nothing for him in this  
16 out-of-pocket billing arrangement. And the testimony of  
17 their expert, Mr. Hines, brought that out.

18 So, I want to remind you this is one of these  
19 charts that they put into evidence that shows all these  
20 various expenses on the out-of-pocket expenses, and  
21 Mr. Hines was asked, Well, do any of these relate in any way  
22 to Mr. Phillips? And he talked about parking fees to  
23 Mercury Group, and here's the slide that he used and I know  
24 it is a little hard to read on this, but you'll see it is  
25 parking.

## Defendant Summation/Mr. Farber

1 (Displayed)

2 And this part of parking which he said was about 2  
3 to 3,000 dollars in parking expenses which as you heard the  
4 testimony related to times when Mr. Phillips would go and  
5 park at Ackerman McQueen's headquarters on business for the  
6 NRA. That's the only line item that relates to him.

7 Next, they talked to you about Gayle Stanford and  
8 the private flights that she arranged for Mr. LaPierre.  
9 Well, Mr. LaPierre needed to fly privately for security.  
10 You've heard multiple witnesses talk to -- I think as  
11 recently as yesterday you heard one of the witnesses,  
12 Mr. LaPierre's expert explain the need for that. There were  
13 legitimate security reasons to keep his itineraries and  
14 destinations confidential. And, yes, Ms. Supernaugh would  
15 and did modify the invoices that Ms. Stanford sent before  
16 sending it through the payment process system because the  
17 same concern for leaks that we were talking about a moment  
18 ago.

19 But, again, Ms. Supernaugh explained to you that  
20 the actual invoices, the ones that she got from  
21 Ms. Stanford, she always retained them and they were always  
22 available for outside auditors or anyone else who needed to  
23 review those to see the underlying detail.

24 Now, there was certainly plenty of testimony in  
25 this case and some other evidence about the fact that



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1 Mr. LaPierre may have taken advantage of this system for  
2 private travel to arrange flights for friends and family.  
3 But, ladies and gentlemen, those are not Mr. Phillips'  
4 trips, okay; and there's no evidence that Mr. Phillips knew  
5 at the time that Mr. LaPierre was doing any of that, if in  
6 fact he was. That was the third thing.

7 What's the fourth? Well, you heard evidence and  
8 the attorney general's office criticizes him for the  
9 supplemental invoices relating to Under Wild Skies, and you  
10 heard, ladies and gentlemen, what those were for. This was  
11 the additional payments that went to Tony Makris's company  
12 in connection with the TV shows and having to do with  
13 hunting that he put on for the NRA.

14 Well, you also heard why these supplemental  
15 invoices, what services they were for. Mr. Makris, in  
16 addition to putting on these programs, would arrange for  
17 high-net rally donors, prospective donors to come on these  
18 hunts; and this was a vehicle for attracting high net-worth  
19 individuals to be potential donors to the NRA. And that  
20 benefitted the NRA and they chose Mr. Makris for this  
21 because of the extensive connections that he had in his  
22 network of people who would be able to do that and  
23 Mr. Phillips gave you a prominent example of this.

24 Okay, he talked to you about a wealthy donor named  
25 Robert Petersen who gave a \$50 million gun collection to the

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1 NRA, and that's now housed in the National Firearms Museum.  
2 And when Mr. LaPierre testified, Mr. Correll introduced this  
3 exhibit. This is a brochure from the National Firearms  
4 Museum, and you'll see on this next one the Robert Petersen  
5 Gallery. Robert A. Petersen is the individual that  
6 Mr. Phillips testified to about who gave this \$50 million  
7 gun collection, and that's what the NRA was getting out of  
8 these -- this work that Mr. Makris was doing on top of  
9 simply the television productions.

10 And, again, once more, there was nothing in this  
11 for Mr. Phillips. He didn't go on these hunts with Tony  
12 Makris; and while, yes, Mr. Makris was like a brother to  
13 Mr. LaPierre -- those were the words Mr. LaPierre used -- he  
14 was just a business acquaintance to Mr. Phillips.

15 Finally, there's been evidence and the attorney  
16 general's office criticizes Mr. Phillips for his role in  
17 payments on consulting contracts. Okay, on all of these the  
18 NRA got value for them. I don't have the time to go  
19 through each every individual one that they criticize, but  
20 I'm going to give you two examples just so you can see what  
21 I mean.

22 They talked about Dave Butz. You remember Dave  
23 Butz. He's the former NFL player. He got paid to serve as  
24 a shooting instructor, a roving ambassador, essentially, for  
25 the NRA. Ms. Supernaugh testified about him, and I think

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1 about how he even instructed her on how to shoot firearms.

2 They, also, criticized the consulting arrangement  
3 with Grassroots Behavioral Science. This was Brad O'Leary's  
4 company. Mr. O'Leary was the predecessor to MMP in the  
5 membership marketing business.

6 Well, you heard both Ms. Supernaugh and  
7 Mr. Phillips explain to you how Mr. O'Leary was,  
8 essentially, a marketing genius, an extremely talented  
9 individual; and he continued to do research for the NRA and  
10 continued to do fundraising for the NRA even after that  
11 business was transitioned.

12 So, I've talked to you about these issues at the  
13 heart of the case that they criticize Mr. Phillips for, and  
14 point out how Mr. Phillips isn't benefitting personally from  
15 any of them.

16 So, what do they say he benefitted from personally?  
17 Well, really two things they criticize him for:

18 First, is the contract that the NRA entered into  
19 with a company called HomeTelos, and this is the company you  
20 see on the slide. If you can't, it is hard to read; but  
21 this was for a contract for software development for the  
22 NRA's website to support a program called NRA Outdoors  
23 Outfitters that they were bringing in house. It had been  
24 done by an outside service.

25 Ladies and gentlemen, this was a legitimate

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1 contract, okay, that the NRA received value for. If you go  
2 look, there's a contract review sheet. It has all the  
3 required approvals, legal review from the office of General  
4 Counsel, the Executive Vice President, Mr. LaPierre signed  
5 it. The President at the time, I think that was Mr. Porter,  
6 he signed it. Alan Cors, who was the First Vice President  
7 signed it.

8 And, ladies and gentlemen, the testimony that  
9 you've heard, the evidence you've seen is that the head of  
10 IT at the NRA, Tony Hayes, chose HomeTelos on the merits.  
11 It had nothing to do with the fact that Ms. Richards, one of  
12 the principals, was a former girlfriend of Mr. Phillips.  
13 There's no evidence of that.

14 And take a look, ladies and gentlemen, you saw  
15 this, what the Audit Committee found when it went back and  
16 examined the contract, okay.

17 The conclusion that the Audit Committee came to  
18 when they went back and looked at this was that they  
19 determined that the engagement was fair, reasonable, it was  
20 in the best interest of the NRA when undertaken.

21 And they also reported here that you see at the  
22 top, the NRA's managing director information services, Tony  
23 Hayes, advised that he interviewed HomeTelos before engaging  
24 it, determined that the vendor's proposal was satisfactory  
25 and its pricing was reasonable, relative to pricing of

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1 similar services.

2 And he did that when he was unaware of the  
3 relationship between Mr. Phillips's friend and HomeTelos.  
4 He wasn't influenced by that at all.

5 And, then, in item five, he reports:

6 That HomeTelos satisfactorily performed the  
7 services for which it was engaged. And based on all of  
8 that, the Audit Committee came to a determination that it's  
9 fair and reasonable in the best interest of the NRA to  
10 ratify and approve the HomeTelos engagement.

11 That was the Audit Committee shared by Mr. Cotton  
12 who's sitting there in the audience. You remember the poor  
13 man had to testify, I think, over a course of a week, three  
14 or four different days; but he's been nice enough -- welcome  
15 back, Mr. Cotton -- to and join us here this morning. And  
16 this was the Audit Committee meeting back in the days when  
17 he was chairing the Audit Committee, and that was the  
18 conclusion that he and his committee reached after looking  
19 at this. And that wasn't something that Mr. Phillips needed  
20 to disclose to the Audit Committee, by the way, or get  
21 special approval for.

22 The NRA has a related-party transaction policy. I  
23 reviewed that with you -- in fact, I think it was maybe when  
24 Mr. Cotton was testifying -- and it is clear that this  
25 policy doesn't include former girlfriends or current ones,

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1 for that matter; and it was perfectly reasonable for  
2 Mr. Phillips to rely on that policy to mean what it said.

3 The Audit Committee only reviewed that policy later  
4 on and approved it at an abundance of caution because of the  
5 hypersensitivity that the resulted from the warning that  
6 Tom King, remember the board member from New York testified  
7 that he received from then attorney general, Eric  
8 Schneiderman.

9 The fact that Mr. Phillips embraced that effort and  
10 disclosed it in an abundance of caution, which is -- which  
11 is what's reflected on these minutes, that doesn't mean that  
12 he needed to get approval in the first place.

13 So, what's the second thing that they criticize him  
14 for? Mr. Phillips post-employment consulting agreement,  
15 okay. That's what they claim is an improper related-party  
16 transaction. They claim that Mr. Phillips caused the NRA --  
17 that he caused the NRA to enter into it.

18 But, ladies and gentlemen, Mr. Phillips did not  
19 represent the NRA when he signed this agreement. It is  
20 undisputed that he acted at arms length. He had his own  
21 lawyer, Mark Dycio. The NRA had a lawyer. Not Ms. Rogers  
22 or her firm, but Steven Hart who you've heard testimony  
23 about, and Mr. Phillips signed on his own behalf there on  
24 the right, and the National Rifle Association executed -- it  
25 was executed by Pete Brownell there down at the bottom and

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1 Mr. Brownell at the time was the President of the NRA and  
2 was also signed by Carolyn Meadows who you heard testify a  
3 couple different times by video who was then the First Vice  
4 President and has been an Audit Committee member, claiming  
5 that this transaction, there's something wrong about this.  
6 That Mr. Phillips caused the NRA to enter into a  
7 related-party transaction, that's somehow improper because  
8 he may not have gotten the right approval for it is the  
9 ultimate nitpicking by the attorney general's office.

10 They criticize him for not presenting this contract  
11 to the board for approval in advance. That wasn't for him  
12 to do. It would have been wholly inappropriate for  
13 Mr. Phillips to be the person to present this contract to  
14 Mr. Cotton and ask for him to be acting on behalf of the NRA  
15 to approve a contract that he was a counterparty to. That  
16 was for Mr. Brownell, as President, or Ms. Meadows, as First  
17 Vice President or Steve heart as their lawyer to do. Had he  
18 done that himself, you would have been hearing them complain  
19 about the conflict of interest he had in presenting and  
20 asking for approval for a contract with himself.

21 None of this is to say that Mr. Phillips was  
22 perfect or didn't make mistakes. I told you that, also, in  
23 my opening. And, and Mr. Phillips himself candidly admitted  
24 to you during his testimony that there were payments that he  
25 signed off on that did not have all the necessary approvals,

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1 contracts that were entered into orally instead of in  
2 writing. And he was open with you about the fact that some  
3 of those, yes, they did violate internal NRA policies and  
4 procedures; but there's a big difference, a huge difference  
5 between violating a NRA policy and violating the law.

6 Now, tomorrow, Judge Cohen is going to instruct you  
7 on the law and it's his instructions and not my statements  
8 that govern, but listen closely and I expect that in his  
9 instructions you will hear him tell you that a finding that  
10 individual defendant's conduct or a transaction violated an  
11 NRA Bylaw, rule, guidance or policy does not necessarily  
12 mean that the conduct or the transaction violated the  
13 statute. And, Mr. Phillips's conduct did not.

14 Ladies and gentlemen, Mr. Phillips was focused on  
15 the big picture. That's what he was doing to fulfill his  
16 duties to the NRA, what he needed to do to fulfill his  
17 duties to the NRA. He had broad, wide-ranging  
18 responsibilities. Again, Mr. Cotton, among others, went  
19 through these with you. As treasurer and CFO, he had  
20 responsibilities that included not just overseeing payments,  
21 but all financial reporting, tax, budgeting. He had to  
22 report at regular board meetings, Audit Committee meetings,  
23 Finance Committee presentations.

24 And what that meant, ladies and gentlemen, is that  
25 Mr. Philips, himself, could not and did not do a detailed



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1 review of every contract or invoice; and that's not a CFO's  
2 or treasurer's job. What he did do was he built a  
3 well-qualified team basically from scratch that he relied  
4 upon: CPAs, trained CPAs like himself, people like Rick  
5 Tedrick, Sonya Rowling, Michael Erstling whose job it was to  
6 be the first line of defense. And that system, that  
7 management system worked during his 25-year run as CFO and  
8 treasurer, the NRA grew enormously.

9 Now, look, Mr. LaPierre, obviously, deserves the  
10 lion's share of credit for that growth and development;  
11 but Mr. Phillip's work with him was instrumental to it, as  
12 well. And, and I'm -- I wanted to call up this slide for a  
13 minute.

14 You'll remember I -- it came up during  
15 Mr. Phillip's testimony, and this is the slide that shows  
16 the changes in the NRA from 1991 when he started to 2018  
17 when he left. And at the top, you see how, for example,  
18 cash and cash equivalents grew from only about \$194,000 to  
19 over \$30 million. The bottom total assets increased by  
20 \$202 million.

21 You see at the bottom there, net assets -- the  
22 bottom of the first block I should say increased by over  
23 \$140 million.

24 Total grants, go down to the second block, total  
25 grants which were nonexistent had exceeded \$398,000,000.

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1 There were 22 million in 2018 alone.

2 You'll see at the very bottom under assets not in  
3 financials, the documented plan gifts which was something  
4 that the NRA didn't even have in 1991, a program that  
5 started under Mr. Phillips and under Mr. LaPierre, that that  
6 came to over \$300 million.

7 And then finally at the bottom, what's perhaps the  
8 most important metric for a membership organization, look at  
9 how the membership grew. It more than doubled over the  
10 course of those years.

11 Now, when Mr. Phillips retired in 2018, his  
12 successor did things differently. Okay, Mr. Spray, the  
13 ex-navy officer testified by video, was much more  
14 detail-oriented, much more procedurally focused. You heard  
15 Mr. Erstling testify about how he preferred that style to  
16 Mr. Phillips. He didn't like the fact that Mr. Phillips  
17 rarely met with him personally, or that Mr. Phillips in  
18 later years was often working from Dallas instead of from  
19 NRA headquarters in Fairfax.

20 And that may be Mr. Erstling's preference, but I  
21 think we've all seen over the past few years that jobs can  
22 often be done, particularly office jobs, can often be done  
23 remotely every bit effectively as they can be done in  
24 person.

25 Look, I'm not here to tell you that Mr. Spray's

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1 approach or Mr. Phillips' approach, that one was better or  
2 worse than the other. They were different. Okay, but that  
3 doesn't make one right or one wrong. And Mr. Phillips'  
4 style, his management system as CFO and treasurer worked for  
5 the NRA when he was there. It furthered the NRA's mission,  
6 which is precisely what Mr. Phillips' fiduciary duty  
7 required him to do.

8 His focus on the big picture, building donors,  
9 building revenue, building memberships, enabling programs,  
10 allowed the NRA to thrive in an era of growth.

11 But when circumstances changed, ladies and  
12 gentlemen, they did change when the NRA faced the prospect  
13 of regulatory assault and recognized the need to be  
14 hyper-attentive to procedure, Mr. Phillips embraced that  
15 change. As Mr. LaPierre and Ms. Supernaugh both explained  
16 that effort, so-called 360 review or course correction that  
17 you've heard a lot about, that began in 2017 when  
18 Mr. Phillips was CFO and treasurer. Mr. Spray was not hired  
19 until several months into 2018. In fact, Mr. Phillips was  
20 instrumental in his hire. It began in 2017 on his watch.

21 And, later, in 2018, it was Mr. Phillips who sent  
22 out the letters to vendors demanding information. This is  
23 an example of the one to MMP, about auditing files, books  
24 and records from August of 2018; and you'll see, here's a  
25 second letter to MMP. And I haven't highlighted this part,

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1 but you'll see, this is in the first sentence talking about  
2 how the NRA intends to strengthen its position for  
3 documentation and verification of compliance of vendor  
4 assets. These were letters that came from Mr. Phillips who  
5 jumped into this effort with both feet.

6 Those efforts, okay, that willingness to embrace a  
7 new way of doing things is just further proof of how  
8 Mr. Phillips always put the NRA first and was willing to do  
9 whatever he needed to do in order to advance its mission.

10 Now, I should probably stop there; but before I do,  
11 I want to address one thing that Ms. Connell brought up in  
12 her examination of Mr. Phillips: His declining to answer  
13 questions at his bankruptcy deposition based on his rights  
14 under the Fifth Amendment of the constitution because I  
15 think it underscores just how empty the State's case is of  
16 actual evidence.

17 They can't prove that Mr. Phillips, in fact,  
18 violated the law. So, instead, they want to suggest to you  
19 that his exercising that constitutional right is evidence  
20 that he did something wrong. That's simply not true, okay,  
21 and you heard from multiple witnesses about the threats that  
22 the attorney general, herself, Letitia James had made, how  
23 she referred to the NRA as a terrorist, criminal  
24 organization.

25 Ladies and gentlemen, Mr. Phillips was not a party

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1 to that bankruptcy case in which he was deposed so he had no  
2 reason to do anything at all; and what he did, he did what  
3 anyone would do in those circumstances. He followed his  
4 lawyer's advice and he took the Fifth.

5 And you also heard him testify that when he was  
6 fully deposed in this case, by all of them, you heard him  
7 answer he gave testimony; and you also heard him answer all  
8 of Ms. Connell's questions and everyone else's for all the  
9 other lawyers on that witness stand in open court in front  
10 of you. He did that, ladies and gentlemen, because he did  
11 nothing at all wrong.

12 With that, thank you for allowing me the privilege  
13 of addressing you. Thank you for giving me your attention,  
14 and I'm going to turn the podium over now to Mr. Werbner.

15 SUMMATION BY

16 MR. WERBNER:

17 MR. WERBNER: Your Honor, I don't think I'll need  
18 it, but could I have a one-minute warning if I get that  
19 far?

20 THE COURT: Okay.

21 MR. WERBNER: May it please the Court.

22 THE COURT: It sure does.

23 MR. WERBNER: Good morning, folks.

24 I want to start at the outset because I'm talking  
25 about damages, I want to make something very clear. The

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1 fact that I'm talking about damages in no way suggests a  
2 that there was liability in this case. I have a duty to  
3 cover all the questions that you might be asked, and you're  
4 going to be asked about three things I think when you hear  
5 from the judge tomorrow. They're going to sort of be  
6 numbered A, B and C. I don't know if it is 2A, or 2B or 2C.  
7 That will be determined by the judge in the instructions in  
8 what's called the verdict sheet.

9 But 2A or 3A, whatever it is called in the papers  
10 in series, A is going to ask has the plaintiff proven by the  
11 preponderance of the evidence that Woody Phillips violated  
12 his duty of good faith and care?

13 I believe you're going to answer that no, they have  
14 not proved that he violated his duty of good faith; and if  
15 you do, you will not answer questions B and C that ask about  
16 whether there was harm and what amount of damages, if any,  
17 there was.

18 But, I want to address with you the questions about  
19 harm and damages.

20 I think that there's a fatal, fundamental flaw in  
21 the plaintiff's case about damages. They say that there was  
22 millions and millions and millions of dollars of harm caused  
23 to the NRA by Mr. Phillips' actions and that's just not  
24 true.

25 They made a fundamental mistake because they called

## Defendant Summation/Mr. Werbner

1       only one witness, their million-dollar man, Mr. Hines. He  
2       got over a million dollars to testify in this case; but all  
3       he did was tabulate from the general ledger and from the  
4       bank statements various sums of money. He never analyzed  
5       whether Mr. Phillips had caused any damages to the  
6       organization.

7               And I have the transcript from page 3162. I asked  
8       this million dollar man when I questioned him, he danced  
9       around a little bit and I had to be a little aggressive in  
10      my questioning. I apologize for that. Hold that against  
11      me, not Mr. Phillips.

12             But, I had to ask him:

13             "Sir, can you tell us what damages, if any, were  
14      caused by Woody Phillips; yes or no?"

15             He said, "I have not calculated damages."

16             And then I said, "And, therefore, you can't say  
17      what damages, if any, Woody Phillips caused the NRA;  
18      correct?"

19             "Again, I haven't calculated," he said. "I can't  
20      say because I haven't performed that analysis."

21             So, they have not brought you any evidence in the  
22      case to show what the damages, if any, were caused by Woody  
23      Phillips. They made a mistake by not doing that. Probably,  
24      because there were no damages.

25             Mr. Phillips acted in good faith, but they

1           wanted -- if they wanted to, they should have brought a  
2           witness to say I've looked at all the numbers, I've done all  
3           the tabulations and the damages caused by Mr. Phillips  
4           were X. They never did that, and I think the reason is  
5           clear is because there aren't damages that were caused by  
6           Woody Phillips.

7                       Ladies and gentlemen, Woody Phillips always acted  
8           in good faith. That's essentially undisputed. You saw from  
9           Lisa Supernaugh who worked with him for twenty-one years  
10          when she testified about a list and an e-mail of  
11          transactions without a written contract. She was very  
12          convincing and compelling when she looked at you and told  
13          you that he always acted in good faith. That he always  
14          served the mission of the NRA.

15                       (Continued on next page)

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**Defendant's Summation/Mr. Werbner**

1           MR. WERBNER: It's essentially undisputed. Not one  
2 witness came to tell you and say that Woody Phillips acted  
3 in bad faith. Not one witness did that. And not one  
4 witness showed that it -- he was the cause of any damages.

5           Ladies and gentlemen, Woody Phillips acted loyally  
6 to the NRA. That's almost undisputed as well. He was loyal  
7 to the NRA throughout his 25-year career, and he never  
8 intended to do any harm to the NRA. There is no proof that  
9 he ever wanted to harm the NRA, and he didn't harm the NRA,  
10 and he didn't profit in any way.

11           Does that make any sense?

12           They want -- the Plaintiff wants you to award  
13 millions, maybe ten of millions of dollars against Woody  
14 Phillips. They say it's restitution, but he never took any  
15 money. The money they want from him is not going to go to  
16 the Attorney General or to the Plaintiff or the State of New  
17 York. It's money they want him to pay to the NRA. Millions  
18 of dollars. But he never took any money.

19           The only indication in his 25-year career what he  
20 did was get a salary for those 25 years, and then he had a  
21 legitimate consulting agreement so that he would be  
22 available to answer any questions and to do whatever he  
23 needed to do to aid in the transition to Mr. Spray.

24           Folks, Woody Phillips is a good man, and Woody  
25 Phillips acted honorably throughout his career at the NRA.

**Defendant's Summation/Mr. Werbner**

1 The State wants to put him in bankruptcy, ladies and  
2 gentlemen, and he doesn't deserve it. Please don't do that.  
3 Woody Phillips doesn't deserve to be made penniless. The  
4 evidence doesn't support that, and that's what the Plaintiff  
5 is going to ask you to do. Thank you.

6 THE COURT: Thank you, sir. We are going to take a  
7 break now.

8 For my master plan of the day to work, we need to  
9 restart before 11:30 so maybe a ten-minute break if we can  
10 do it.

11 THE COURT OFFICER: All rise. Jury exiting.

12 (Whereupon, at this time the jury exits  
13 the courtroom.)

14 THE COURT: One logistical thing I wanted to let  
15 you know. There is a -- you can sit. There is a -- one of  
16 the regs permit me either on my own motion or to have a copy  
17 of the instructions -- the written instructions go to the  
18 jury as long as I certify that it's correct, and I'll do my  
19 best to read it the way it's written. Sometimes I can't  
20 help myself. But even if I do that, it just says -- and  
21 this is 22 NYCRR 220.11. It says if it's not the transcript  
22 that we are giving them, I have to certify that it's a  
23 correct copy of the instructions, but also says that I  
24 should afford the parties an opportunity to be heard about  
25 whether they have an issue with that.

## Defendant's Summation/Mr. Werbner

1 Does anybody care one way or the other? I just  
2 feel like if we are going to give it to them, it would be  
3 handy for them to be able to refer to it in the jury room.

4 MS. CONNELL: Your Honor, Plaintiff agrees that the  
5 instructions should go back with the jury, and we trust the  
6 Court with regard to the certification. It's fine.

7 THE COURT: Anyone on the defense side have a  
8 problem? I mean, look --

9 MR. FARBER: No objection.

10 THE COURT: They can ask for the transcript.

11 MR. CORRELL: No objection.

12 MS. ROGERS: No objection.

13 MR. FLEMING: No objection.

14 THE COURT: Okay. Great. Let's be back here in  
15 five minutes.

16 (Whereupon at this time there was a recess taken.)

17 THE COURT: Counsel, before we get the jury, I had a  
18 brief chat with the juror who has the plan -- the travel  
19 plans next week, and I told her that we'd check in with her  
20 tomorrow, but that my rule is if whoever is going to be in  
21 the jury and deliberating, has to stay through the entirety  
22 of the entire thing even if it goes into next week. And so  
23 I asked her to think about it. And if her position is she  
24 can not do that or will not do that, I would chat with you  
25 all and we would decide whether it makes more sense to just

## Defendant's Summation/Mr. Werbner

1       excuse her before deliberations start and just have her be  
2       one of the extras. I don't want to be in a situation where  
3       we have six, and we know already there is a risk of her not  
4       coming. So I made it very clear that she will -- if she is  
5       in the group of six, she will not be excused to travel. So  
6       I need to know before that happens. And so I said that I  
7       would address it with you initially, but that I would talk  
8       to the juror tomorrow. So I think we discussed this. My  
9       view is that's not a risk that's worth taking. So we will  
10      talk about it.

11                You know, I assume you don't mind me checking in  
12      with her tomorrow and see just one on one what her position  
13      is going to be.

14                MR. FARBER: No objection.

15                MS. ROGERS: No objection.

16                MS. CONNELL: No objection.

17                THE COURT: If anybody has a different view as to  
18      what we should do if the response is, well, look, I'm  
19      leaving on X day whether you want me to or not, you know, my  
20      view is that's an unavailable juror. If anybody has a  
21      different view, I'd like to know it. Okay.

22                MR. FARBER: Our view is the same.

23                MS. ROGERS: Likewise.

24                MS. CONNELL: Agree, your Honor.

25                THE COURT: I wanted to keep everybody around at

## Defendant's Summation/Mr. Werbner

1 least till today because, well, what would we do if somehow  
2 we lost four other jurors and we needed all six, but we  
3 thankfully at this point are in a position where we have  
4 extras.

5 All right. Let's get the jury.

6 If things go well, we will have both closings at  
7 1:00, and we might not even next need the extra time.

8 THE COURT OFFICER: All rise. Jury entering.

9 (Whereupon, at this time the jury entered the  
10 courtroom.)

11 THE COURT: Okay. Welcome back. Have a seat.  
12 Please have a seat. All right. Next up is Mr. Correll for  
13 Mr. LaPierre.

14 MR. CORRELL: Good afternoon. Good morning, I  
15 guess. I'm speaking for Mr. LaPierre. You've met Mr.  
16 LaPierre.

17 When I spoke to you for the first time at the  
18 beginning of the case, I said that I would introduce you to  
19 Mr. LaPierre. You would meet him, and he would tell you  
20 what he knew and when he knew it, what he did and why he did  
21 it and what he did to fix the mistakes that he made.

22 Mr. LaPierre built the NRA. Not single handedly.  
23 He had the help of others. He had the help of Woody  
24 Phillips who was there from almost the beginning. John  
25 Frazer came in and helped, and he trusted them. He relied

**Defendant's Summation/Mr. Werbner**

1 on them. He believed they were competent, and he received  
2 information from them periodically that led him to believe  
3 that all is well, that everything was running as it should  
4 be running. Sadly, he never received notice of some of the  
5 things that became an issue with the Attorney General's  
6 Office, things like how to handle payments on car leases,  
7 how to deal with gift -- gifts to employees, whether or not  
8 wardrobe was an expense that he should cover or that the  
9 association should cover.

10 He was focused on the big picture. He was on the  
11 road. He was focused on building relationships because he  
12 knew that that was what he was good at. He was not an  
13 accountant. He was not a lawyer, but he knew people and he  
14 enjoyed being with people. He enjoyed meeting members. He  
15 enjoyed listening to them. He enjoyed speaking for them.  
16 That's what he was really interested in. He wasn't  
17 interested in building a big pile of money for himself. He  
18 wasn't interested in trying to get money secretly through  
19 some back-door arrangement with the association.

20 He probably could have made a lot more money doing  
21 something else as a high-priced consultant in Washington.  
22 He was at a very early age one of the top lobbyists in  
23 Washington. If he had wanted to make a fortune, he could  
24 have. He could have bought a yacht if he wanted one.  
25 Probably could have bought a plane if he wanted one, but

**Defendant's Summation/Mr. Werbner**

1        what he did was he devoted himself to a cause, and that  
2        cause was freedom, one element of freedom which was the  
3        Second Amendment, the right to protect yourself against  
4        aggressors and even the Government, if necessary.

5                So this may be the most important case in the  
6        country right now, and I do not exaggerate. Its been  
7        followed in the press. You haven't been able to read it,  
8        but when you're finished, you will be able to read it. It's  
9        testing the limits of Government's power to intrude in  
10       private lives, and that's a fight that Wayne LaPierre has  
11       been fighting since he was out of college and since he was  
12       -- since he came to work for the NRA. It's really about  
13       fighting for everyone who feels that there should be limits  
14       to what the Government can do to private citizens, and he's  
15       paid an incredible price for that.

16                You've heard that Letitia James called the  
17        organization he works for or worked for and helped build a  
18        terrorist organization. A terrorist organization. Four  
19        million of her fellow Americans, she called terrorists. And  
20        she promised to destroy it. She said to people, if you give  
21        me money and you give me votes and you give me power, I will  
22        use that power to destroy this organization, and she set out  
23        to do that. She got elected. They gave her money. They  
24        gave her votes. They gave her power, and this is how she  
25        used it.

**Defendant's Summation/Mr. Werbner**

1           Mr. LaPierre had to fight back. He had to fight  
2 back not for himself because he didn't think he had done  
3 anything wrong. He had to fight back for the four million  
4 members who trusted him, to fight for them, to speak for  
5 them, to be their voice in Washington and elsewhere. That's  
6 the fight that he's been engaged in. Its been the fight of  
7 his life, and he has engaged in it despite a debilitating  
8 physical condition that has plagued him for the last four  
9 years, but he was not willing to step down and leave and  
10 leave this organization undefended against this attack.

11           Now, you heard the testimony. A call from Tom King  
12 who said he got a call from Eric Schneiderman who said I  
13 don't like what I'm seeing, and I'm summarizing. Sum or  
14 substance. But that pressure is building for an attack by  
15 the State of New York on the NRA, and I don't think it's  
16 right. You need to prepare for it. The law has changed.  
17 Probably no one's in compliance. You need to make sure that  
18 you're doing everything right because this has been  
19 identified as a vulnerability, and they are going to come  
20 for you. He didn't know whether that was right or wrong,  
21 when it would come -- when the attack would go come, if it  
22 came, but he did exactly the right thing. He hung up the  
23 phone. He called -- I guess he picked up the phone and  
24 called a lawyer and said -- told them what happened, and  
25 then hired a firm that was known for its non-profit practice



## Defendant's Summation/Mr. Werbner

1 to look into the matter.

2 What do we need to do to comply? Are we in  
3 compliance? If not, what do we need to do to get in  
4 compliance. He understood he had to build a bull-work  
5 against a government intrusion. It wasn't the first time he  
6 had had to fight for the association and its members. There  
7 had been an attack before from the federal government in an  
8 administration that was hostile to the organization and that  
9 was upset that -- that -- at the success that the  
10 organization was having in elections. So this was nothing  
11 new.

12 He did the right thing. He gave instructions. He  
13 gave directions to look at everything, turn over every stone  
14 and to look at him because he wanted to know whether there  
15 was anything he might have done that needed to be fixed that  
16 should have been done a different way.

17 You heard about the efforts that he went to  
18 identify things that he had done. You heard about the  
19 process. You heard about how long it took to get documents  
20 to figure out what needed to be paid or what he wanted to  
21 pay. You also heard about the threat level that he was  
22 facing throughout the more recently but beginning early on  
23 in his career, actually beginning in the the 2000's. And  
24 you heard about the security people telling him that he  
25 needed to travel private.

**Defendant's Summation/Mr. Werbner**

1           The Attorney General has taken a position that as  
2 if the law prohibited private jet travel by people who work  
3 for not-for-profit corporations. It doesn't. It's not in  
4 the not-for-profit corporation law. It doesn't say people  
5 who work for not-for-profit corporations can not fly  
6 private.

7           You heard an expert -- the Attorney General's  
8 expert admit that the PGA Tour requires their top executives  
9 office to fly private for security reasons, for efficiency  
10 reasons, for privacy reasons, and you saw the 990. I think  
11 I put it up for you that showed that -- that they require  
12 their executives to travel that way. It was perfectly  
13 reasonable for Mr. LaPierre to rely on the information from  
14 security experts or when they told him you need to start  
15 flying private. Whether it's business, whether it's  
16 personal, you need to do that.

17           Now, did he think that if he was flying to a  
18 convention and his wife accompanied him sitting in an empty  
19 seat so that she could do an event for the Women's  
20 Leadership Forum that that had some tax consequence that he  
21 needed to be aware of? He just didn't know. It never  
22 crossed his mind.

23           When the review started and the issue came up, he  
24 promptly performed appropriate calculations and started  
25 writing checks to cover that piece of that travel.

**Defendant's Summation/Mr. Werbner**

1           The Attorney General has suggested to you that  
2           every private flight that was taken was somehow a personal  
3           flight. It wasn't. The evidence shows that he was  
4           traveling all over the country legitimately on NRA business.  
5           It was in the interest of the NRA for him to do that.

6           You heard testimony from Craig Spray that he was  
7           raising \$10 million a month. When it looked like the NRA  
8           might have to close its doors, you heard Craig Spray say he  
9           pulled a rabbit out of the hat. He gave them the freedom  
10          they needed to keep functioning while they got their house  
11          in order and they got through the choppy water.

12          The Attorney General doesn't want you to think  
13          about the benefits Mr. LaPierre has brought to the NRA. The  
14          Attorney General doesn't want you to think about the money  
15          he's raised for the NRA. They don't want you to think about  
16          the relationships he has built for the NRA. They want to  
17          put a picture of a yacht up on the screen and tell you that  
18          there is something wrong with his sending an invitation, to  
19          accompany the McKenzies on a cruise in the Mediterranean  
20          where he knew he was going to be introduced to people that  
21          were in a position to advance the interests of the NRA.

22          They want you to think that flying out to Hollywood  
23          to meet with celebrities was something he was doing for his  
24          own private benefit to benefit himself not, the NRA, but you  
25          saw the results of the effort that he made. He was in a way

**Defendant's Summation/Mr. Werbner**

1 a visionary. He was -- he understood influencers before  
2 "influencers" was a word. He was dealing with influencers  
3 in Hollywood and elsewhere before there was an internet,  
4 before there was TikTok, before there was anything. He got  
5 it. He was a genius not only from a political science and  
6 government standpoint, but from a marketing and messaging  
7 and relationships standpoint.

8 The organization was lucky to have him, and he is a  
9 one-of-a-kind individual. You met him. He is not the  
10 arrogant, greedy, exploitive person that the AG has tried to  
11 make him out to be. You can see that for yourself. He sat  
12 here for day after day after day struggling with illness to  
13 tell you the story, to tell you the truth, and I think you  
14 heard it.

15 All the AG can do is criticize and bring in a  
16 million dollar man Mr. Hindsight Mr. Hines who sat in a arm  
17 chair critiquing the quarterback on the field when he's  
18 never played football. The man has never been on the field.  
19 He has never been in LaPierre's shoes. He has probably  
20 never had a death threat. He's probably never had someone  
21 throw a couple of coffee at him. He's probably never had to  
22 deal with that kind of psychological stress really and stand  
23 in there and continue to fight.

24 So the AG doesn't want you to look at the heroism.  
25 They don't want you to look at the freedom he's put forth.

**Defendant's Summation/Mr. Werbner**

1 They don't want you to look at the four million Americans  
2 that he has represented and spoken for.

3 Letitia James wants to take their right to select  
4 their leader away from them. In fact, even though he is no  
5 longer the executive vice-president of the NRA, they are  
6 going to ask you to find whether there is cause to remove  
7 him or whether there was cause to remove him. It's vicious.  
8 It's inappropriate. But you're going to be asked to do  
9 that.

10 The fact is that Letitia James set out to destroy  
11 the organization, and she knew the best way to do that was  
12 to try to destroy Wayne LaPierre because he was head of the  
13 organization. It was critical to the organization. She  
14 wanted to decapitate the organization, and that was for  
15 political reasons.

16 So when you look at the evidence, look at it  
17 through the lens of a government official who has made  
18 promises to people who gave her money for her campaign, who  
19 gave her votes, who gave her political support and send this  
20 team of lawyers out looking for something, anything they  
21 could use to try to discredit him, to try to embarrass him,  
22 to try to humiliate him, and they joined forces with a  
23 powerful organization that was a vendor that was stealing  
24 from the organization. Stealing from the NRA. And she  
25 would have you believe that she cares about the NRA and that

## Defendant's Summation/Mr. Werbner

1 she wants to get money for the NRA so it could go back to  
2 the NRA.

3 Does that make any sense to you? She called it a  
4 terrorist organization. Why is she using public resources  
5 to try to get money to put into a terrorist organization?  
6 It doesn't fit. It doesn't make sense. What's happening  
7 here is a travesty, and I'm sorry for becoming passionate  
8 and maybe I don't want to overstate it, but you have to  
9 understand the context in which this investigation was  
10 opened, the context in which this action was brought. And I  
11 say that for a reason. They are criticizing Mr. LaPierre  
12 for exercising his business judgement to try to get some  
13 protection from the federal government, from a federal judge  
14 by instructing bankruptcy counsel to take appropriate steps  
15 to seek any protection he could get for the organization  
16 from the federal government from an impartial federal judge  
17 knowing that the bankruptcy process is the most transparent  
18 and open process in the world. You have to open all of your  
19 books to the world to the bankruptcy court. Anyone can come  
20 in and ask questions, and it's the -- it's the ultimate  
21 transparency because nothing can be hidden. Nothing can be  
22 hidden. So the suggestion is that there was some benefit to  
23 Mr. LaPierre that he was trying to achieve personally by  
24 talking to bankruptcy counsel, consulting with a Special  
25 Litigation Committee, and after doing that, making a hard

**Defendant's Summation/Mr. Werbner**

1 decision to try to get whatever protection he could get for  
2 his organization from this State that was attacking him.  
3 They fault him for that are.

4 They are going to ask you to hold him liable for a  
5 violation of law on the theory that he was not acting in the  
6 best interest of the organization. They may try to take the  
7 word "lack of good faith" out of the judge's opinion in the  
8 bankruptcy and try to tell you that that somehow meets the  
9 standard for imposing liability on him under the  
10 not-for-profit corporation law. It doesn't. You have to  
11 make your own decision.

12 Was Mr. LaPierre acting in good faith when he did  
13 that? Was he acting honestly? Was he acting with sincerity  
14 of intention? Was he acting to try to protect the  
15 organization he had helped build?

16 He was born in 1949. He's 74 years old. That's  
17 half as old as the NRA which is 150 years old. He's been  
18 with it for a third of its life, and it was under attack by  
19 the State of New York.

20 It would have been a dereliction of duty for him  
21 not to make the hard decision knowing that he would take the  
22 heat, and he made that decision by himself after seeking  
23 information from appropriate professionals, from counsel,  
24 particularly highly qualified bankruptcy counsel and from  
25 the Special Litigation Committee who were disinterested and

**Defendant's Summation/Mr. Werbner**

1 approved of the path, the course of action that he was  
2 thinking about taking.

3 So when they talk to you about that, keep that in  
4 mind. Why was he doing that? What possible benefit could  
5 he have achieved from that? He didn't believe that this  
6 action would stop. It wouldn't. Not with respect to him.  
7 Not with respect to the NRA.

8 What he thought was that he could lay the  
9 foundation for moving the organization to Texas where it  
10 would be in a friendly environment.

11 The change in the law that has been discussed in  
12 this case, the Non-Profit Revitalization Act of 2013 was  
13 designed to create a friendly environment for not-for-profit  
14 corporations in this country, in this State.

15 The AG is using that law in exactly the opposite  
16 way to create a hostile environment for organizations that  
17 she doesn't like that support candidates that are opposed to  
18 candidates from her party. It's a pervasion of the statute.  
19 It's a pervasion of justice, and that's what we are seeing  
20 here.

21 So I'd like you to think of the evidence in the  
22 following light. Is it -- is the evidence really supporting  
23 the theory -- this narrative that the Attorney General is  
24 trying to sell to you, that Mr. LaPierre was in this for his  
25 own benefit, that he was in it for the money, that he was



**Defendant's Summation/Mr. Werbner**

1 greedy? Or was he in this for the right reasons; to fight  
2 for the members, to fight for freedom, to fight for the  
3 Second Amendment. And now more and more, to fight for the  
4 First Amendment, to fight for the right to speak freely, to  
5 fight for the right to associate freely.

6 Let's talk about some facts in the case. The -- we  
7 went through the 2013 agreement that he's been criticized  
8 for signing. You heard evidence that he didn't receive a  
9 penny from that, and over time he got uncomfortable with it  
10 and said, look, I think it's a burden. Let's tear it up.  
11 It was torn up.

12 So in talking to you about that deal which forms  
13 the basis for one of their claims, ask yourself was there  
14 any harm to the association as a result of this agreement.  
15 Did he get a penny out of it. Did he get any benefit out of  
16 it? I think you'll conclude that the answer is no.

17 You heard Mr. Fleming speak eloquently about John  
18 Frazer. Mr. LaPierre had been criticized for hiring John  
19 Frazer. They said Frazer -- Mr. Frazer was incompetent. He  
20 was inexperienced, that this was an attempt by Mr. LaPierre  
21 to get someone he could control and manipulate.

22 Ask yourself if that makes sense. You have met Mr.  
23 Frazer. You have heard from him. Is he that person? And  
24 is Wayne the person who were would hire someone to be  
25 incompetent and then rely on that person to cover that

## Defendant's Summation/Mr. Werbner

1 important base?

2 Same thing with Mr. Phillips. Mr. LaPierre relied  
3 on information from Mr. Phillips, and the evidence is that  
4 Mr. Phillips was functioning as a treasurer and CFO without  
5 any indication of any problem.

6 You heard Mr. Erstling say that he never spoke to  
7 be Mr. LaPierre. You heard others say that they didn't  
8 speak to Mr. LaPierre. It appeared that the treasury  
9 function and the CFO function was being performed well.

10 And when the Top Concerns memo surfaced, when  
11 people came forward, what did Mr. LaPierre do? He gave  
12 direction to run it down. It doesn't matter who -- who they  
13 were looking at. They needed to look at everyone. The  
14 testimony is clear on that. Everyone says that. Mr. Spray  
15 said the 360 review couldn't have been done without Wayne  
16 LaPierre. Of course, it couldn't. He was the EVP. He gave  
17 the direction. He set the tone. He said go for it. Look  
18 at everything. Look at me.

19 The AG, their basic claim is that Wayne LaPierre  
20 failed to discharge the duty of his position in good faith  
21 and with the care an ordinarily prudent person in a like  
22 position would exercise under similar circumstances.

23 Let's talk about a like position. Is there a  
24 position like this that you can think of in this country?  
25 It is unparalleled. It is unique, and that is no

1       exaggeration. There's never been a position like this given  
2       the number of roles he's had to play, TV, radio, speeches,  
3       debates, politics, interacting with influencers all over the  
4       world.

5                They fault him for accepting an invitation to  
6       travel with the McKenzies. They fault him for accepting an  
7       invitation to stay on a boat in a time when the threat level  
8       was so high he couldn't go home.

9                (Continued on the following page.)

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## Defendant Summation/Mr. Correll

1 (BY MR. CORRELL)

2 He couldn't go anywhere. A friend said, Look, my  
3 boat is down in the Bahamas. If you want to go down there,  
4 you'll be safe. He says, yes. He was not thinking for a  
5 minute that this was something that he needed to disclose,  
6 to tell people where he was going and when he was going to  
7 be there. He went.

8 In retrospect, you heard him. He's acknowledged  
9 that that was a mistake, that he shouldn't have done it and  
10 he hasn't done it since. But, there's no evidence that that  
11 had any effect on his judgment, in his dealings with David  
12 McKenzie or the company. You've heard that many people  
13 looked at that arrangement and concluded that it was a good  
14 arrangement, it was good for the NRA.

15 Even the fee increases were appropriate fee  
16 increases. They were justified. And they don't want to  
17 talk about how much money MMP brought in for the NRA. Over  
18 a hundred million dollars in some years. And when they  
19 stopped bringing in that much money because the economy  
20 changed in COVID, the fee was adjusted. They brought no one  
21 in to tell you to testify that in their view the NRA could  
22 have gotten a better deal elsewhere, that they could have  
23 shopped it around and gotten it for less at the same level  
24 of quality. There's no testimony to that effect because it  
25 is not true. It is not true.

## Defendant Summation/Mr. Correll

1           So, it's about criticism. It's about criticism of  
2 a man who is actually in the arena, and it is about --  
3 excuse me -- it is about an attempt -- it is about an  
4 attempt to get that man out of the arena and that is really  
5 the purpose of this action.

6           They're asking to ban the man for life from  
7 nonprofit service. What they're asking is that they want a  
8 ban so that he cannot work for any nonprofit anywhere in the  
9 country, if he conducts any activities in New York. Why  
10 would you do that to a 74-year-old man who has retired and  
11 is ill? They want to take him off the field because he  
12 succeeded to too much. So, it is not a lack of success in  
13 leading this organization.

14           It is the success in leading the organization that  
15 has caused Letitia James to bring this action. Now, where  
16 is Letitia James? I don't see her. We've been here for six  
17 weeks. If case were so important to her, why wouldn't she  
18 be here? I'll tell you why. I would have called her as a  
19 witness and asked her why she did this, what she had in  
20 mind, what were her purposes? She didn't show up.

21           So, I can't think at this point of what else might  
22 be -- you might want to know, but I will echo Mr. Fleming's  
23 remarks that this is my last time to talk to you and when  
24 we're done, the attorney general is going to be able to  
25 stand up and she's going to be able to say a lot of stuff

## Defendant Summation/Mr. Correll

1 knowing that I won't be able to respond.

2 So, just like Mr. Fleming, think it through, be  
3 skeptical. Ask yourself if I were standing here or  
4 Mr. Fleming were standing here, what the response would be  
5 when they say the evidence shows this or the evidence shows  
6 that? In your mind, hold them to a high standard of proof.  
7 They brought this case. They have accused Mr. LaPierre and  
8 others of misconduct.

9 Ask the hard question, have they made their case?  
10 Have they proved this case? Have they carried their burden?

11 I submit to you that they haven't, not with respect  
12 to Mr. LaPierre. I submit to you that they have concocted  
13 this story of greed and selfishness that is just not borne  
14 out by the proof.

15 You should return a verdict in Mr. LaPierre's favor  
16 of no liability. He acted in good faith with honesty and  
17 with sincere intention. He acted with care. He selected  
18 people carefully. He trusted them. And if he's at fault,  
19 it's for trusting, perhaps trusting people too much,  
20 trusting Angus McQueen, trusting Tony Makris who he thought  
21 of as a friend. He is -- he's a trusting individual because  
22 he looks for the best in people. He believes the best about  
23 people and he -- and he gives people free reign to do their  
24 jobs.

25 You heard him say that his philosophy was to work

## Defendant Summation/Mr. Correll

1 hard and let his performance speak for itself. His  
2 performance speaks for itself. This organization survived  
3 and thrived for many years under his leadership. When  
4 concerns were raised, he addressed them. He addressed them  
5 appropriately and timely, turning things over to lawyers  
6 and professionals.

7 He received reports from Woody Phillips every year  
8 about audits. He asked him, How are the audits going? And  
9 the answer was always fine. And when he said, How did the  
10 audit turn out? The answer was always, It turned out great,  
11 no material deficiencies, clean audit.

12 When a CFO with no accounting background hears  
13 that, that's not a red flag. That's a green flag. That  
14 says all's well; and it means I can get back on the plane,  
15 back in a car, out on the road and get back to meeting with  
16 members and doing my job, which is raising the money to fund  
17 all these programs.

18 Relationships is the word I will leave you with  
19 because that's in his view -- that was in his view the key  
20 to building this organization, brick by brick over a long  
21 period of time; and those relationships take time to mature.  
22 Genuine close relationships don't happen immediately. You  
23 may meet someone. You may circle back a year later and  
24 fifteen years later, someone may give you \$50 million worth  
25 of firearms for your museum. That's how it works.

## Defendant Summation/Mr. Correll

1           Mr. LaPierre was always out looking for a big  
2 donor, a big donor like Michael Bloomberg who could support  
3 the organization as he said in a way that would take some  
4 have the burden off the smaller donors. It was a smart  
5 idea. It was -- it was a reasonable strategy.

6           His business judgment was good on the big things.  
7 His judgment failed him on some of the little things. When  
8 he realized on how it would look to people and they thought  
9 that the NRA was paying for a flight for someone in his  
10 family, he paid it. You saw the checks, a million dollars.  
11 And went back to the year 2000, which is beyond the period  
12 that's even at issue in this case. He didn't have to go  
13 back that far. He did it because he wanted to. He wanted  
14 to square it all up.

15           So, I'll 11 you with this thought: That as with  
16 Mr. Frazer, you're here to judge a man and his life and to  
17 decide whether he's the man that the AG says he is, which  
18 he's not; or whether he's the man you saw on the stand and  
19 whether he's the man that you see through the evidence,  
20 through the eyes of other people who knew him and worked  
21 with him.

22           This is a story made up by someone with an agenda,  
23 someone who wanted him out of the game, out of the arena,  
24 off the field, out of the league, banned for life.

25           Who in the world seeks a judgment banning someone



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1 for life from nonprofit service? It is unheard of. It is  
2 un-American and it is just wrong.

3 So, when you pull out that verdict sheet, I'm -- I  
4 will ask you to deliberate, talk about it; but I hope when  
5 you get through that process, you will check the box "no" on  
6 liability and stop there.

7 If you get past that -- and I'm not suggesting you  
8 should -- ask yourself the same question that Mr. Werbner  
9 suggested you ask, which is has Wayne LaPierre caused any  
10 harm to this organization? Has he received any money that  
11 he hasn't already paid back? Is there anything he got that  
12 he hasn't squared up? The answer to that is clearly no.  
13 They haven't put on any evidence that he received any  
14 benefit that he was not entitled to.

15 There are big focuses on the airplanes. Well,  
16 remember Mr. Cox said, well, he flies by prop planes as  
17 if you could get from here to LA on a prop plane. It would  
18 take you two days.

19 It was a cost benefit analysis and security was the  
20 biggest benefit. There was also productivity and efficiency  
21 and privacy that allowed Mr. LaPierre to accept the  
22 corporation's provision of this charter travel, which was  
23 disclosed in the 990s every year with a description of why.  
24 So, the idea that he was trying to hide this from anyone  
25 is -- should be rejected. The Internal Revenue Service knew

## Defendant Summation/Mr. Correll

1       it, the AG knew it and these reports were placed before the  
2       board.

3               So, when they talk to you about flights, just  
4       understand the law doesn't prohibit it. The board of  
5       directors were informed of it through the 990s. The AG  
6       knew about it since 2009 and never called up and said, hey,  
7       we see that you've checked the box for charter travel.  
8       Who's traveling? Where? How much? They never did it.

9               It never happened until Letitia James made a  
10      promise to use her office to come after the NRA. That's  
11      when the AG suddenly got interested in whether the -- the  
12      NRA was providing charter travel to Mr. LaPierre.

13              It is the first time they got interested in car  
14      service. How do you get from point A to B without car  
15      service? And does the law require that it be a white car or  
16      a blue car or a red car? No. People travel. They use  
17      whatever ground transportation is available. If you have a  
18      security detail, you cannot ride in  
19      a smart car. You would have to have a little fleet of smart  
20      cars to get people where they're going.

21              That's not how the real world works. So I ask you  
22      to think, use your common judgment, use your common sense,  
23      use your collective intelligence to ask the question how  
24      could he do the job he did without traveling a lot and  
25      without being conscious of the security issue and making

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1       sure that he was safe and he got there on time and was  
2       productive?

3               So, thank you for your patience. Six weeks, this  
4       has been a long trial; and I just hope that -- when I walked  
5       in the courthouse today, I looked up and it says "The True  
6       Administration of Justice is the Firmest Pillar of Good  
7       Government," and I try to look at it every time I come in to  
8       the courthouse because I say that's why I'm here.

9               George Washington wrote that and right now, you are  
10       the firmest pillar of good government. You are going to  
11       decide how far government can intrude into the life of a  
12       private individual because of what that individual said on  
13       behalf of others, because of who he has associated with and  
14       you will be the bull work against government intrusion. You  
15       will have to decide on the facts of this case what the facts  
16       are, what the truth is and whether you are going to allow  
17       the government to make you a part of this.

18              Thank you.

19              THE COURT: Thank you, Mr. Correll.

20              Stretch break while we change.

21              (Brief pause)

22              THE COURT: Let's get resettled, please.

23              COURT OFFICER: Come to order. Keep your seats in  
24       the gallery.

25

**Defendant Summation/Ms. Rogers**

1 THE COURT: All right, everybody all ready? Okay.  
2 Counselor, you may proceed.

3 SUMMATION BY

4 MS. ROGERS:

5 MS. ROGERS: All right, ladies and gentlemen, good  
6 morning. Can you hear me okay? This will be the last time  
7 I have to ask you that.

8 It's been a long six weeks and a short six weeks  
9 for all of us. It's been long for you because you had to  
10 pause your normal lives and trudge through the snow to be  
11 here with us to get justice done. My client and I are so  
12 grateful to you for that.

13 And it's been short, it actually flew by for me  
14 because it turns out that six weeks is a really short  
15 capsule in which to condense a story that lasts six years.  
16 It's been six years since 2018 when the NRA whistleblowers  
17 who you met on that witness stand, Sonya Rowling and Mike  
18 Erstling, came forward whether their colleagues, the NRA  
19 Audit Committee, and raised concerns. It's been six years  
20 since the NRA heard from the Government that there was  
21 political pressure to leverage recent changes in nonprofit  
22 law to hurt the NRA.

23 It has been six years since that Audit Committee  
24 listened to those whistleblowers, leaned in, sent letters,  
25 fired vendors, hired forensic accountants, got rid of old

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1 executives, brought in new ones, filed some lawsuits,  
2 settled some and set things right.

3 I showed you the slide on the first day we met.  
4 You are the sole judges of the facts in this case, and so  
5 you have the power and the responsibility to separate facts  
6 from fiction. You heard some true stories and you heard  
7 some false narratives, and it is now your power and your job  
8 to tell those apart.

9 So now that all the evidence is in, let's look at  
10 what the facts show and what they don't.

11 I stole this PowerPoint slide from the attorney  
12 general. This is from the PowerPoint presentation they  
13 showed you on the first day of our case. This is a list of  
14 things they said they were going to prove.

15 Yesterday on screen and today on screen, actually,  
16 you've seen some images of some checks written to the NRA by  
17 Mr. LaPierre. But on the very first day of this case, the  
18 Government wrote some checks they could not cash, and here  
19 they are.

20 The Government promised to prove that the NRA  
21 failed to properly administer itself and its charitable  
22 assets. Now, the Judge will tell you tomorrow what that  
23 means; but I expect that as part of what the Judge tells you  
24 will be two important things:

25 First, I expect that you'll be asked to consider

**Defendant Summation/Ms. Rogers**

1       whether the NRA and all these transactions and all these  
2       disputes and all these facts you've heard where the NRA was  
3       trying to pursue the legitimate purposes of its nonprofit;  
4       and I expect that you'll be asked to consider whether in  
5       trying to pursue those legitimate purposes, the NRA board of  
6       directors, which is the seats of the NRA's corporate  
7       governance, acted in good faith and with ordinary care.

8               And I expect the Court to tell you that to win on  
9       this claim, to cash that check, the Government will have to  
10      show not just that the NRA made some business decisions that  
11      you might make differently with 20/20 hindsight; but that  
12      the NRA failed as a trustee of its mission, its purposes and  
13      its donations, and that is a high burden and they can't meet  
14      it.

15             Now, the second thing they promised to prove to you  
16      is that the individuals sitting over there breached certain  
17      duties to the NRA. Now, that's not a claim against my  
18      client, so I won't spend too much time on it; but I want to  
19      point something out.

20             In bringing that claim, the Government admits that  
21      the NRA is the victim of quite a bit of a misconduct against  
22      the NRA, which the Government alleges; and that's a phrase I  
23      want you to keep in your minds.

24             As they get up this afternoon after lunch and talk  
25      about misconduct they've alleged, which they think they can

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1       prove; ask yourself whether it is misconduct against the  
2       Government, against a third party, ask yourself whether  
3       Ackerman McQueen who they like so much is really the victim  
4       here or ask whether it is misconduct against the NRA?

5               The fact that they have sued for breaches of duty  
6       to the NRA and want you to award money damages payable to  
7       the NRA tells you all you need to know about what the  
8       Government deep down admits concerning who's the victim and  
9       who's the perpetrator in this case.

10              When the jury writes a note to the judge, the judge  
11       shares them with the lawyers. So, knowing at the earliest  
12       days of this case one of the jurors wrote a note asking why  
13       the NRA's lawyer -- that's me -- sometimes seems to be going  
14       against her own company?

15              The truth is that in this case, in these six years  
16       the years and some of the years preceding them, there was  
17       misconduct against the company, against my client, against  
18       the NRA; and as an advocate for the company, it is my job to  
19       be honest with you about that. But, misconduct against the  
20       NRA is not an offense by the NRA.

21              Now, the third thing that they promised to prove  
22       that they must prove, that they can't prove, is that the  
23       NRA engaged in something called related-party transactions.

24              You heard me ask Mr. Frazer yesterday -- and the  
25       judge will instruct you tomorrow -- concerning the

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1 difference between a conflict of interest and a  
2 related-party transaction, and the short answer is that a  
3 conflict of interest is a really broad category; and  
4 sometimes a corporation has to act on it, and sometimes they  
5 don't. Sometimes it is enough to be aware of it and  
6 disclose it.

7 A related-party transaction is a much narrower  
8 technical category where certain criteria needs to be met.

9 So, it is not illegal, the Judge will advise you --  
10 and you should listen to him and I'm predicting what he  
11 might say -- it is not illegal for a nonprofit to do  
12 business that someone who's close to it. In fact, that  
13 happens a lot in a nonprofit world.

14 But if the person close to the nonprofit is the  
15 person participating in a business deal that's large, that's  
16 not in the ordinary course of business, not something the  
17 company does all the time. And that it involves a  
18 sufficient amount of money and it meets certain other  
19 criteria, than the board has to evaluate that transaction to  
20 ensure that it is fair. And if the board evaluates it after  
21 the fact, they have to also evaluate why it happened in the  
22 first place.

23 You will hear that for the very small number of  
24 transactions they have thrown at you that actually meet the  
25 related-party transaction definition, the NRA board acted



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1 perfectly appropriately as Mr. Frazer's counsel discussed  
2 earlier with respect to all those transactions that were  
3 approved in 2016 properly any document they tried to keep  
4 from you.

5 All right, the fourth claim on the slide, the  
6 fourth check they can't cash is the one that personally  
7 offends me the most. It is the claim that the NRA  
8 mistreated whistleblowers.

9 In fact, you met real whistleblowers, people who  
10 came forward who said it was scary and they did it any ways  
11 and they spoke out with respect to misconduct involving  
12 people who had more power than they did, and they were  
13 listened to.

14 The attorney general tried to undermine the  
15 credibility of one whistleblower by asking on cross whether  
16 he was promoted, received a promotion after blowing the  
17 whistle. You're damn right he did. So did Sonya Rowling  
18 who sits now in the chair that Mr. Phillips use to occupy.

19 Finally, the NRA and Mr. Frazer are accused of  
20 making materially false statements in regulatory filings.  
21 The evidence doesn't support that claim either. What the  
22 evidence actually shows and what you've heard and what we'll  
23 go back over briefly today is that there were  
24 inconsistencies in some tax returns where the box wasn't  
25 checked for a compensation paid to a board member. But if

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1       you flip the page, there's a list of compensation paid to  
2       board members. And you heard from several outside  
3       accountants about how the NRA fixed that. They bought  
4       software that checked to make sure that the schedule and the  
5       check box lined up.

6               That is not an example of someone telling a  
7       materially important lie on a government document that would  
8       affect how a serious stakeholder, like a donor via fund,  
9       which Mr. Tenenbaum mentioned or like a donor or a member  
10      would receive that document.

11              That is an inconsistency and, certainly, not the  
12      kind of inconsistency, by the way, that anyone would  
13      knowingly or intentionally put in a document because if  
14      you're going to lie in governance or your donors about  
15      whether you're doing these kinds of transactions, you  
16      wouldn't list them all in detail and then forget to check  
17      the box.

18              All right, so did they prove any of these claims  
19      against the NRA? Obviously, no. But since they want to  
20      talk about how the NRA is administered, let's talk about  
21      it.

22              You saw during trial evidence about the NRA's  
23      corporate governance which is robust and extensive. There  
24      are 76 elected directors who represent NRA members. They  
25      come from all walks of life. I introduced you on the first

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1 day of trial to Kim Rhode, an olympic athlete, who's NRA  
2 inducted. He's been a sheriff. He has been a lawyer. He  
3 has been a CPA. He's another NRA director. He's with us  
4 now. You, also, met Ms. Froman on the stand, a Stanford and  
5 Harvard lawyer who brings those skills to bear on the NRA  
6 board.

7 These are diverse -- this is a diverse and highly  
8 accomplished group. You have an Audit Committee in charge  
9 of overseeing internal controls that meets almost monthly  
10 and you have 39 committees total.

11 We cited a lot of documents on the bottom of this  
12 slide. Everything I show you today is annotated with proof  
13 you saw. When you're in the jury room, if want to see any  
14 of these documents again, any of the testimony again, you  
15 can ask the Court for it. As Mr. Frazer's lawyer told you,  
16 we're not afraid of the facts. We didn't try to keep  
17 documents out of the record because the documents tell the  
18 story that is true.

19 All right, I expect to hear and I already heard a  
20 combination of two things from the Government. When we talk  
21 about what the NRA did when this information came to light,  
22 I have already heard and I expect to hear a combination of  
23 the refrain "too little too late" and "too much too soon."  
24 You either spent too much money on lawyers and filed too  
25 many lawsuits and separated from too many people, you didn't

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1 give Chris Cox his golden parachutes. That's one of their  
2 accusations. And then out of the other side of their mouth  
3 they accuse us of waiting too long, not acting enough, not  
4 going to scorch earth enough. Why didn't you sue  
5 Mr. Phillips? Why didn't you sue Mr. LaPierre?

6 Those are the questions I expect to hear from them  
7 during closing. If you hear it, don't fall for it. I'm  
8 going to tell you what we actually did. I'm going to review  
9 what the evidence shows you we actually did and when and how  
10 and why.

11 The truth is that a story that lasted six years  
12 began in the sprint of 120 days.

13 I'm going to try to make this laser -- it is not  
14 working. I'm going to do this again.

15 So, summer 2018, Ms. Rowling and Mr. Erstling, whom  
16 you met on that witness stand, come forward to the Audit  
17 Committee with their concerns list. They -- the speaking  
18 out was facilitated by the new CFO the NRA hired, that's the  
19 Top Concerns Memo. The Audit Committee members are  
20 flabbergasted and they act immediately. Letters go out to  
21 hundreds, hundreds of NRA vendors which are the focus of the  
22 Audit Committee concerns.

23 Now, you heard Ms. Rowling say that although she  
24 was ultimately supported and affirmed by the NRA, speaking  
25 out was scary at first and one reason is that one target of

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1 that Top Concerns list was Ackerman McQueen. The,  
2 advertising agency whom -- who you saw Mr. Cox e-mailing  
3 with his friends, saying I have too much control over the  
4 NRA, right, the deep state of the NRA, these were  
5 accountants working the Finance Department who probably  
6 thought they had much less power than Ackerman McQueen, and  
7 they came forward any ways. And Ackerman McQueen, along  
8 with MMP, this other fundraising vendor you've heard about,  
9 were primary targets of these letters.

10 The NRA demanded information; and when they didn't  
11 receive enough, they sent in auditors and hired forensic  
12 accountants. So from that point forward -- this is  
13 Mr. Sullivan's demonstrative that he showed you his  
14 timeline. From that point forward, the compliance efforts  
15 which had always existed in some form of the NRA really  
16 kicked into gear.

17 And, by the way, another refrain I expect you to  
18 hear from the Government is that the NRA's compliance  
19 efforts were sort of a death bed conversion, that the former  
20 attorney general had warned us we were about to face a  
21 political prosecution; and so we made a show of tightening  
22 things up. But, the Government doesn't start investigating  
23 the NRA until the middle of 2019. All of these efforts  
24 really start with the whistleblowers coming forward in 2018.

25 That's the catalyst. That's the spark, and from

1 that point on, employees start paying things back or getting  
2 fired. You're either part of the problem or you're part of  
3 the solution. That was the message from the Audit  
4 Committee. The message was delivered, and it was acted  
5 upon.

6 Now, the NRA decided that Mr. Frazer was part of  
7 the solution. We think the Government's claims against him  
8 are unfair. The false filing claims are unfair, and a lot  
9 of what Mr. Fleming said regarding this allegation that  
10 Mr. Frazer used the NRA as a personal piggybank is unfair  
11 and wrong. The NRA trusted Mr. Frazer, and he remains part  
12 of our family.

13 Mr. LaPierre at certain points had been part of the  
14 problem, and he remained part of the family because he  
15 committed in some senses more than anyone to be part of the  
16 solution.

17 (Continued on next page)

18  
19  
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22  
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25

**Defendant's Summation/Ms. Rogers**

1 MS. ROGERS: You heard Ms. Froman testify. She was  
2 a sophisticated lawyer that was brought into the NRA by Neal  
3 Knox who hated Mr. LaPierre, by one of this dissident  
4 directors. She was brought into the NRA by one of those  
5 anti-establishment factions. She voted to keep Mr. LaPierre  
6 in power, and she said, and I'm paraphrasing slightly that  
7 he knew -- he knew if we fearlessly investigated all the  
8 misconduct against the association, we might find some  
9 things implicating him, and he ordered it anyway.

10 He committed to put the interests of the NRA before  
11 his own, and that is what being part of the solution meant,  
12 and that is why the Board kept Mr. LaPierre in power until  
13 it was time to transition.

14 All right. We only looked at this document  
15 together briefly during the early part of this case, but I  
16 want to remind you of it. It is one of the most important  
17 documents in this case.

18 So after the Audit Committee hears from the  
19 whistleblowers and leans in in the Summer of 2018, as I've  
20 just narrated, letters go out to all these vendors including  
21 one of the most powerful vendors, Ackerman McQueen, and  
22 Ackerman McQueen responds with a letter sent from outside  
23 counsel to outside counsel because they don't want the  
24 accountant seeing it that says, look, everything at Ackerman  
25 is legal. All these documents are fine, but you should stop

**Defendant's Summation/Ms. Rogers**

1 asking for them because you might create a paper trail that  
2 New York State might see.

3 You have heard a metaphor used in a couple of other  
4 closing statements that the NRA was turning over rocks to  
5 find problems and fix them. That the NRA was turning over  
6 rocks to find problems and fix them.

7 To mix metaphors for a moment, this letter is  
8 Ackerman saying there are bodies buried under these rocks,  
9 and you should leave those bodies and these document here  
10 with us in Oklahoma where New York can't get them because if  
11 you persist with your demands for transparency, if you  
12 demand that we give you all the receipts for all the money  
13 we spent, you are going to find some things that might hurt,  
14 that might hurt some of your executives, and the NRA.

15 If the NRA fit the caricature they are going to  
16 draw for you of a corrupt charity that does business in  
17 smoke-filled back rooms at cigar bars handing out sweetheart  
18 deals to insiders that isn't really committed to compliance,  
19 the NRA could have stopped right there. Because if you look  
20 at this letter in the jury room, you'll see that it gives  
21 the NRA all the superficial assurances it could have, and  
22 this letter says everything is fine. All the expenses  
23 comply. Don't create a paper trail. Don't dig.

24 Because the NRA was committed to doing the right  
25 thing, because the NRA Board was committed to properly



**Defendant's Summation/Ms. Rogers**

1 administering this charity's assets in furtherance of its  
2 mission, the NRA dug.

3 All right. You heard a little bit about this from  
4 Mr. Phillips, but I want to talk briefly about what happened  
5 in the years leading up to this, the six years that brought  
6 us here. The truth is in the six years leading up to the  
7 whistleblower outcry in the Summer of 2018, the NRA  
8 flourished. The NRA did spectacularly well. The NRA  
9 membership more than doubled.

10 You heard that the NRA's payments to one of its  
11 membership servicing vendors, MMP, that does mass mailing to  
12 the members increased during this time. Well, the number of  
13 members increased steeply too.

14 In the six years leading up to the Government  
15 targeting the NRA for political reasons, the NRA became a  
16 formidable political force. And you might not like the  
17 NRA's politics. I told you the first day we met that for  
18 many years of my life, I did not like the NRA's politics.  
19 But when you're asked to evaluate whether the NRA was  
20 behaving consistently with its legitimate purposes or  
21 whether it was a proper trustee of that charitable purpose,  
22 the answer is yes. The answer is that the NRA's members and  
23 donors got what they paid for, and this is not a scam,  
24 fly-by-night charity, but this is a very successful and  
25 formidable non-profit.

**Defendant's Summation/Ms. Rogers**

1 All right. You've heard the phrase "tone at the  
2 top." The tone at the top has changed because personnel have  
3 changed.

4 Josh Powell is a name you heard from both me and  
5 Ms. Connell on the first day of this case. They originally  
6 had said they were going to call him as a witness. They  
7 originally sued him, but they let him off the night  
8 before -- well, two days before trial, so he is not part of  
9 this case. But Josh Powell is part of the problem. The NRA  
10 demanded money back from him, and he's gone.

11 John Frazer's still with us. Mr. Phillips retired.  
12 Mr. LaPierre stuck out the course correction that he  
13 ordered -- that he ordered knowing it would hurt him and  
14 then resigned. And we have a new interim EVP now about whom  
15 they presented you no evidence whatsoever about any  
16 misconduct, any spending, any use of private jets. Mr.  
17 Arulanandam is in that chair until the Board finds a  
18 professional CEO.

19 We have Bob Mensinger. He didn't testify to you,  
20 but he is the new managing director of compliance. You  
21 heard about who is going to be -- who is in the process of  
22 becoming a compliance officer who reports independently to  
23 the Audit Committee which is exactly what their corporate  
24 governance said was the best possible practice.

25 All right. You met Mr. Cotton and Mr. Coy. Both

**Defendant's Summation/Ms. Rogers**

1 are accountants who serve on the Audit Committee. Both  
2 received high marks from the outside accountants who are  
3 paid to be independent in evaluating the transparency of  
4 their communication, and they were transparent with you on  
5 the witness stand. I hope that you were able to see that.  
6 These are honest men.

7 All right. On this slide, I'm showing you some  
8 documents from the case. I'm also showing you a picture of  
9 the sun rising over the Roman Colosseum and showing you that  
10 for a reason.

11 The Colosseum like the NRA is old. The Colosseum  
12 is just a little bit older. NRA is about 150 years old.

13 You heard me ask Mr. Frazer the other day if the  
14 NRA was so committed to fixing things -- starting in 2018,  
15 if the NRA was so committed to redressing the misconduct  
16 against the company, then why were there still some loose  
17 ends in subsequent years. And Mr. Frazer told you, this is  
18 an old large organization, and it's true. The NRA is more  
19 than a century old. The NRA has 76 directors. The NRA has  
20 millions of members. The NRA has reams of policies and  
21 procedures. Each one of these tax returns that the NRA had  
22 to scrutinize and perfect is hundreds of pages long. So  
23 change takes time, and that's the sun rise element of this  
24 picture. Change takes time which means that a course  
25 correction is much more like a sunrise than like a light

**Defendant's Summation/Ms. Rogers**

1 switch. And as you sit in the jury room and review this  
2 evidence, I think you will see the sun rising starting in  
3 2018.

4 I want to talk briefly about what's on this slide.  
5 We've got the letters to vendors, Ackerman McQueen,  
6 Associated Television, Under Wild Skies. These were  
7 powerful vendors. These were -- all the invective they'll  
8 throw at you about vendors ruling the NRA, about vendors  
9 being over paid.

10 In that whistleblower concerns' memo, there's a  
11 phrase in there, the whistleblowers are concerned that  
12 management is subordinating judgment to vendors, letting  
13 them call the shots too much.

14 With Mr. Cox, I showed you an email that led to him  
15 testify that it was unhealthy for the vendor Ackerman to  
16 have so much control. These vendors that had too much  
17 control over the NRA are the ones that the NRA pretty  
18 fearlessly pursued and severed in 2018.

19 Associated Television owned by David McKenzie owns  
20 the yacht you heard about or at least indirectly owns the  
21 yacht you heard about. They were cut off at 2018.

22 And you heard Mr. LaPierre testify that Associated  
23 Television committed a fraud against the NRA that was  
24 concealed from the NRA that did not benefit but only hurt  
25 the NRA, and it was put to an end as soon as the Board

**Defendant's Summation/Ms. Rogers**

1 learned.

2 Another thing the Board did as soon as it learned,  
3 and you'll see in those September, 2018 Audit Committee  
4 minutes is the Board ordered compliance seminars.

5 So when the Board ratified related-party  
6 transactions, when it says, this deal is fair, but it should  
7 have been documented more, and here's what we're going to do  
8 to make sure that doesn't happen again without proper  
9 advance documentation is when the Board does that, it also  
10 sits down and says here are the procedures we're going to  
11 implement.

12 And one procedure the Board committed to implement  
13 were these compliance trainings which it already started and  
14 they continued.

15 I showed you with Mr. Frazer yesterday that long  
16 list of names of people who signed and attended those. Mr.  
17 Frazer testified that to his knowledge all senior staff have  
18 been trained at least once, and most of them, many times.

19 All right. Let's talk about who you heard from. I  
20 don't know if you remember it, but I remember it from the  
21 first day of this case. I told you in my opening statement,  
22 Watch who the government sides with and watch who they  
23 expect you to believe.

24 So the Government put up two witnesses from  
25 Ackerman McQueen, this vendor that even their own other

**Defendant's Summation/Ms. Rogers**

1 witnesses called corrupt, that Mr. Cox, subordinate in an  
2 email called as "chosen," who wanted to run everything.  
3 They give you Mr. Winkler; right.

4 Mr. Winkler who sent all those out-of-pocket  
5 expenses invoices to the NRA who testified under oath that  
6 the Zegna suits were never billed to the NRA and then it  
7 turns out they were, that's who's testifying for the  
8 New York Attorney General.

9 Lieutenant Colonel North testified for the New York  
10 Attorney General. He signed a contract worth \$7 million  
11 with Ackerman McQueen.

12 Now the most important piece of Mr. North's  
13 testimony -- I'll get to the rest of it in a moment, but the  
14 piece that lingers for me the most is when I asked him,  
15 Isn't it true, Lieutenant Colonel -- I asked him -- I was  
16 standing right over here -- that the NRA asked you to  
17 choose. Once the NRA and Ackerman were at war, the NRA  
18 asked you to choose Team Ackerman or Team NRA, and you  
19 refused, and he said yes.

20 That was the breaking point ultimately with  
21 Lieutenant Colonel North. He's on Team Ackerman, and it  
22 turns out that Team Ackerman is Team New York Attorney  
23 General.

24 All right. We also heard from Rocky Marshall and  
25 Esther Schneider. I'll get to both of them later.

**Defendant's Summation/Ms. Rogers**

1           We also heard from Phillip Journey. Phillip  
2 Journey who ran a website professionally raising money for  
3 NRA, getting members to pay him to oppose the Attorney  
4 General, and when he collected all their money, he flipped  
5 and testified for the Attorney General. And he gave that  
6 money to a 505 (c)(3) that he borrowed from a friend he said  
7 he knew well, but on the witness stand indicated -- on the  
8 witness stand claimed not to know whether that friend had in  
9 fact been convicted of a felony tax fraud. That's who he  
10 was giving NRA's members money to. That's who they put in  
11 front of you.

12           Who did we put in front of you? We put in front of  
13 you Mr. Cotton, the sheriff, the accountant, the cop, the  
14 lawyer who sits on the Audit Committee whose never been  
15 accused of taking a penny from the NRA who is independent.

16           We put in front of you Ms. Froman. Ms. Froman who  
17 from her time at Harvard Law School has been the kind of  
18 person who speaks when something is wrong. Ms. Froman who  
19 was friends with Judge Journey, who was friends with Neal  
20 Knox, who was friends with many critics of the NRA  
21 leadership, but said that she too chose to support Mr.  
22 LaPierre for a few years in this instance because Mr.  
23 LaPierre had committed to do what was right even if it hurt  
24 him.

25           We gave you Mr. Coy. Mr. Coy whose been on the

**Defendant's Summation/Ms. Rogers**

1       Audit Committee for decades. Mr. Coy who said he forced  
2       himself to take seriously the allegations of an anonymous  
3       whistleblower even when that whistleblower made painful,  
4       antigay comments against an NRA employee. He had to do his  
5       duty to investigate that letter, and he did.

6               We put in front of you Congressman Bob Barr.  
7       Again, not accused of taking any money. We put in front of  
8       you Mr. King who was friends with the former Attorney  
9       General who comes from the era that Mr. LaPierre described  
10      where Democrats and Republicans could be friends.

11              Mr. King, they faulted for receiving a \$90,000  
12      salary which is not very much in New York as some of you  
13      know to run the New York affiliate of the NRA, a New York  
14      affiliate that's been spectacularly successful including at  
15      the Supreme Court.

16              We put in front of you two real live whistleblowers  
17      whom the NRA listened to and protected and promoted, Sonya  
18      Rowling and Mike Erstling.

19              No whistleblowers -- no real whistleblowers  
20      testified for the Government in this case. All right.

21              So what did you hear from the whistleblowers.

22              You heard some concerns in the Summer of 2018 that  
23      were pretty significant. All of these concerns you heard  
24      were investigated and addressed. So senior -- all right.  
25      You heard about senior management overrides of internal



**Defendant's Summation/Ms. Rogers**

1 controls.

2 Senior management has now changed, and the managers  
3 who remained had to commit to get on board with the  
4 compliance review or get out of the way.

5 Josh Powell is gone. Mr. Frazer is still there.  
6 That's a good thing. All right.

7 You heard a concern from whistleblowers about  
8 judgment being subordinated to vendors. Those vendors were  
9 put through the ringer. Ackerman McQueen eventually  
10 declared a blood feud against the NRA. The NRA fearlessly  
11 dug into Ackerman's documents and today NRA and Ackerman are  
12 no longer in business together. All right.

13 And you heard a concern about vague and deceptive  
14 billing. That's another thing the whistleblowers brought  
15 up, and that's another think the Audit Committee when they  
16 learned of it immediately acted upon with demand for more  
17 detailed billing.

18 All right. And what do you hear from the same  
19 whistleblowers today?

20 You hear from Ms. Rowling who came forward even  
21 though it was scary to raise concerns about overrides of  
22 internal controls. You hear from her that after she came  
23 forward, the NRA which is properly administered by its  
24 careful Board acting in good faith, the NRA appropriately  
25 fixed that situation. There are no internal overrides.

**Defendant's Summation/Ms. Rogers**

1           Mr. Erstling, another whistleblower, asked if he  
2           experienced any reprisals or retaliation. No. He's moved  
3           up within the organization.

4           All right. And what you heard from the top cops in  
5           the Audit Committee, you heard that they apply their  
6           training as professors of accounting, ethics and as law  
7           enforcement officers to supervise controls of the NRA, and  
8           they've done that very energetically and effectively. There  
9           were reams of Audit Committee reports and minutes in the  
10          evidence that you will be allowed to request in the jury  
11          room. Request any one of those Audit Committee reports and  
12          you'll see the committee acting diligently.

13          All right. I told you to remember the phrase  
14          "misconduct against the NRA."

15          The truth is, the reason that some instances of  
16          misconduct against the NRA persisted for a few years before  
17          they were addressed starting in 2018 is because they were  
18          concealed from the NRA.

19          Now you heard Mr. LaPierre testify right there  
20          yesterday that billings by Associated Television, that  
21          entity that was cut in November of 2018, that out-of-pocket  
22          expenses by Ackerman, that the ten percent surcharge and  
23          other improperly private jet-related expenses billed by a  
24          travel agent, that all of these were fraudulent schemes  
25          against the NRA.

**Defendant's Summation/Ms. Rogers**

1 Well, the essence of fraud is that it's a lie. The  
2 victim doesn't know about it, and if you're trying to  
3 judge -- if you're trying to judge whether the NRA was in on  
4 any of these schemes, whether the NRA wanted to be fleeced  
5 by Ackerman McQueen, if you're looking at the NRA's good  
6 faith, one of the best ways to look at that is to look at  
7 what the NRA did when they discovered the fraud, and that  
8 timeline I've laid out for you starting in 2018, and all of  
9 the documents we're footnoting on these slides answers that  
10 for you.

11 What the NRA did when it discovered the fraud was  
12 it dug in. It turned over even the rocks it was warned not  
13 to touch. It did this at tremendous cost. It took risks  
14 for the benefit of the association and its mission. And Mr.  
15 LaPierre for his part repaid millions of dollars with  
16 penalties and interests to the NRA.

17 All right. Mr. Phillips. You have heard from his  
18 counsel. It's up to you to judge Mr. Phillips' good faith.  
19 I'm not asking you to do that.

20 The reason I'm talking to you today about Mr.  
21 Phillips is that for years Mr. Phillips who was hired from a  
22 a reputable accounting firm and had a duty to tell the NRA  
23 if anything was wrong did not report to the Board. He went  
24 before the Board on numerous instances. He was before the  
25 Audit Committee and the Finance Committee all the time but

**Defendant's Summation/Ms. Rogers**

1 did so without mentioning any of these issues of which he  
2 was aware.

3 Mr. Phillips suffered a brain injury and was  
4 working remotely part of the time. So again, it's up to you  
5 to judge his good faith, but it was up to the NRA, and it  
6 was the NRA's prerogative, and it was the NRA's right to  
7 rely in good faith on what its top accountant was telling  
8 it. And at the minute those whistleblowers came forward,  
9 the minute the NRA saw a single red flag, a single  
10 indication that the reports being delivered by Mr. Phillips  
11 might be leaving important things out, the NRA left no stone  
12 unturned.

13 All right. Oh, one more thing. The Government has  
14 insinuated in some of their cross that the NRA should be  
15 faulted for not suing Mr. Phillips.

16 One difference between Mr. Phillips and some of the  
17 -- and Chris Cox who they offer as their witness and some  
18 other former employees is when the NRA stopped paying Mr.  
19 Phillips, right, he had a post-employment contract, that the  
20 NRA stopped paying and cut off. When the NRA cut that off,  
21 Mr. Phillips didn't sue the NRA.

22 So that's -- that's the reason that the NRA --  
23 that's one reason the NRA has not engaged in a court battle  
24 with Mr. Phillips the way we were with some of these  
25 witnesses the AG has sponsored for you as trustworthy.

**Defendant's Summation/Ms. Rogers**

1 All right. We talked a little bit about Lieutenant  
2 Colonel North.

3 Lieutenant Colonel North. It's incredible. They  
4 put forward a high expert commenting to you on related-party  
5 transactions, and his job was to add up lots of big numbers  
6 and put it on the screen to make the NRA look bad. And he  
7 left off the biggest number of all which is Lieutenant  
8 Colonel North's contract with the ad agency, the "Ass Clowns  
9 For Anything" according to Mr. Cox, his contract with  
10 Ackerman McQueen.

11 Ackerman McQueen the same ad agency that sent that  
12 letter warning the NRA not to create a paper trail by  
13 getting justification for its expenses.

14 All right. You heard Colonel North take the  
15 witness stand and tell you that he was a whistleblower who  
16 had been retaliated against because he asked to see the  
17 legal invoices for my firm, the outside firm that was  
18 looking into Ackerman, and Mr. Frazer wouldn't give them to  
19 him. He faulted Mr. Frazer. He accused him of hiding  
20 documents.

21 And then I put this email up on the screen where  
22 Mr. Frazer says, Hey, Lieutenant North, you can come look at  
23 the invoices any time. They are in my office. You can't  
24 look at the ones that are about you, but that's only three  
25 of a whole bunch. You can look at all of the others.

**Defendant's Summation/Ms. Rogers**

1           Colonel North claimed to have no recollection of  
2           that email. I don't know if he was actually surprised by it  
3           or if he just left it out of his testimony because it was  
4           inconvenient for him.

5           All right. You heard from Chris Cox. This is --  
6           this was a great underrated moment of this trial. So Chris  
7           Cox on direct with the Government because they sponsor him  
8           as their witness, right, he testified that he flies coach  
9           and favored hotel is Marriott. And then we see the email  
10          he's been sending the NRA as part of his salary  
11          negotiations; right. And I asked him, Mr. Cox, did you ever  
12          ask the NRA to pay travel expense relating to activities  
13          involving you and Eric Trump and Don Junior, and he said no.  
14          No. No. No. And then I showed him this, and it says  
15          travel including Shikar for Don and Eric. I said who are  
16          Don and Eric? And he said, oh, those are the president's  
17          sons. Right. So I don't know if there's a difference  
18          between Eric Trump and Don, Junior and the president's son.  
19          I'm just a lawyer. Not a lobbyist. Maybe someone can  
20          explain that distinction to me, but I would submit to you  
21          that Mr. Cox while a talented beltway lobbyist is not a  
22          credible witness.

23          We also heard Mr. Cox say that the private flights  
24          he requested were very different than the ones he was  
25          faulting Mr. LaPierre for taking because these were smaller

**Defendant's Summation/Ms. Rogers**

1 planes, and you the jury are the judges of each witness'  
2 credibility, so I will let you decide for yourself how much  
3 credibility you give that.

4 Mr. Cox testified for two days. And on the first  
5 day I asked him, are you sure -- are you sure that as a part  
6 of your salary negotiation, you never asked to be fired.  
7 And he said, oh, no, I never asked to be fired. And then he  
8 takes the witness stand the second day knowing he's going to  
9 be crossed, and he said I want to correct something. I  
10 actually ask to be fired. That's Mr. Cox. He was asking --  
11 he was asking for it.

12 Oh, no. Here we go, all right. This was really  
13 fun. Mr. Tenenbaum. So he was the Government's best  
14 practices expert, and there were two moments of his  
15 testimony that I want to remind you guys about. The first  
16 related to purported whistleblower Esther Schneider.

17 So when Mr. Tenenbaum on the stand testifying about  
18 whistleblower policies and practices, I walked over here to  
19 my colleague Ms. Eisenberg, and I acted out a piece of  
20 testimony we had just seen about a conversation between a  
21 Board member Carolyn Meadows and Esther Schneider, their  
22 whistleblower that happened around the time Ms. Meadows  
23 declined to pick Ms. Schneider for a committee. I replayed  
24 this with Ms. Eisenberg, and I said to Ms. Eisenberg what  
25 their whistleblower said to her colleague which is, You're a

**Defendant's Summation/Ms. Rogers**

1 stupid fucking bitch. And the most candid moment of  
2 testimony we saw from Mr. Tenenbaum was his disgusted  
3 reaction to it. He almost sputtered. He turned and said,  
4 well, that's not blowing the whistle. And you know what? I  
5 agree with the Government's expert on that. That's not  
6 blowing the whistle.

7 But there was another really fun moment in the  
8 cross-examination of their expert, and that's when I read  
9 aloud to him some text relating to whistleblower policy. So  
10 I read these words, and I suspect you will see the same  
11 words in the instruction the judge gives you.

12 I asked him, Mr. Tenenbaum, a whistleblower is  
13 someone who reports actions that is illegal, fraudulent or  
14 violation of a policy, right?

15 Now, Mr. Tenenbaum was paid to be a witness for the  
16 Government, and he thought I was reading from an NRA policy.  
17 So he gave the answer he was paid to give which is, Oh, no.  
18 That's not an adequate whistleblower policy. I would want  
19 much more.

20 I asked him, you know, well, isn't that the exact  
21 same text as New York Law that my client is supposed to be  
22 abiding by? And he said, oh, I don't know.

23 All right. Let's talk about their other expert.  
24 So they put a forensic accountant in front of you who adds  
25 up a bunch of dollar amounts he finds on invoices, but



**Defendant's Summation/Ms. Rogers**

1        didn't check to see if any of those invoices were actually  
2        paid or whether they were refunded, and he doesn't check  
3        until the night before he testifies whether any of them are  
4        duplicates. Right. So he admitted on cross that he had a  
5        spreadsheet of six pages of flights he thought were wrong or  
6        he had included in his damages figure, and that spreadsheet  
7        shrunk from six to three. It got cut in half as soon as  
8        opposing counsel pointed out a basic error in it.

9                Mr. Hines admitted that forensic accountants are  
10        paid to be careful. He was not careful because he was not  
11        paid to be careful in this case. He was paid to generate  
12        numbers that would make the NRA look bad.

13                Well, who looks bad now?

14                All right. Mr. Hines also put a graph in front of  
15        you showing how much payments to MMP the membership vendor  
16        increased. I have overlaid those payments where the blue  
17        bars with the NRA's own revenue growth which Mr. Phillips  
18        showed you in one of his exhibits. So again, ask yourself,  
19        is the NRA paying -- ask yourself is the NRA paying more to  
20        fundraise from an email its members because Mr. LaPierre  
21        went on the boat or because the membership doubled in size?  
22        Both of those are fair inferences. They have the burden to  
23        prove that it's the insidious one. I would submit to you  
24        that it's the obvious one.

25                Okay. So let's talk about the other experts.

**Defendant's Summation/Ms. Rogers**

1 Remember I told you, you can hear -- you will hear one of  
2 two, possibly both of these from the Government.

3 You will hear that we did too little too late or  
4 too much too soon too expensive.

5 We hired four different finance and accounting  
6 experts who come and provided opinions to you in this case  
7 and we're glad we did. Each of them was important.

8 Ryan Sullivan is a business analytics economist.  
9 He is paid by businesses to help them make complicated high  
10 stakes decisions. Like he was paid by the NBA to help to  
11 figure out how to structure a contract with the players'  
12 union, and he talked to you about reasonableness and  
13 prudence and materiality, how -- you know, what kind of  
14 factors should you think about when you're putting yourself  
15 in the shoes of a business decision-maker. He evaluated the  
16 NRA's compliance efforts and endorsed them firmly.

17 You heard from Amish Mehta. He is an outside  
18 auditor. He is paid to be independent and even a little bit  
19 adversarial, not to be management's friend. He is paid to  
20 look at the books and insure they are in order.

21 He testified that the NRA's conflict of interest  
22 controls and seminars were more robust than many of his  
23 other clients.

24 Then you heard from Matthew Lerner. Matthew Lerner  
25 is an internal auditor. He is not like Mr. Mehta. He is

**Defendant's Summation/Ms. Rogers**

1 not paid to come in and be an independent third party. He  
2 is paid to work inside a company and design internal  
3 controls for it to help to make its compliance environment  
4 better. He thought -- he thought the NRA's control  
5 environment was effective.

6 Then you heard from Bruce Blacker. He is a  
7 forensic accountant like Mr. Hines. I asked him, Mr.  
8 Blacker, would you ever in your work as a forensic  
9 accountant do what Mr. Hines did and add up numbers on a  
10 bunch of invoices without checking to see if they were  
11 actually paid or whether they were duplicates or not. And  
12 he said no, I would never do that in the real world.

13 He also testified to something that I would submit  
14 applies to every single professional who works for the NRA.  
15 Certainly, it applies to me.

16 When you work for a controversial organization, an  
17 organization that is so despised by the regulator that they  
18 try to impose the death penalty on it and take all of its  
19 money, that's a very -- that's a very high-stakes business  
20 decision.

21 And you heard both Mr. Plotts and Mr. Blacker, two  
22 different independent accountants testify that they vetted  
23 the NRA more strictly -- more strictly than another charity  
24 like say if the Red Cross had tried to hire them because  
25 they knew that any opinions or books they produced for the

1 NRA would be attacked as inaccurate. They knew they would  
2 be scrutinized.

3 (Continued on the following page.)  
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## Defendant Summation/Ms. Rogers

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(BY MS. ROGERS)

MS. ROGERS: All right, and you heard from Ms. Cullen. She is an expert at tax accounting, and she testified to the steps the NRA takes to review its tax filings to ensure they are not false, but that they are actually true and accurate.

Can the jury still hear me? Okay, great.

Mr. Plotts was a very important witness.

There were two documents you looked at from him, and one was completed in 2019 which is on the screen, and another was completed in 2020 right after they filed their lawsuit.

So, the NRA is hiring an auditor to look at its books and sign off on its audit financial statements and put yourself in a position of an auditor that's being hired, you know, you know that the client trying to hire you to sign its financials is going to be attacked and is going to be accused of corruption whether they're innocent or guilty. You know that accusation is coming. So, you have to vet that client very carefully, and Mr. Plotts did. Mr. Plotts interviewed accountants at the NRA, not just the higher ups. He interviewed front line employees in what he called fraud interviews. Mr. Plotts reviewed the attorney general's allegations in 2020. Mr. Plotts found the NRA to be very

## Defendant Summation/Ms. Rogers

1 transparent understanding the issues and making all the  
2 right efforts.

3 And if you ask for this document in the jury room,  
4 you will see a long list of what he called special  
5 procedures, special testing that Mr. Plotts performed to  
6 make sure, for example, the travel invoices had proper  
7 support, that related-party transactions were being handled  
8 appropriately.

9 He looked at every allegation in that complaint,  
10 including specific vendors they made allegations about and  
11 tested it because he wanted to be confident, right. That he  
12 wouldn't end up like Mr. Hines' former firm, Arthur  
13 Andersen, which was the accountant for Enron, that he  
14 wouldn't end up being dragged into something like that,  
15 having signed off on financials that weren't true.

16 THE COURT: Just a head's up, we're closing in on  
17 the end. I'm giving you some of Mr. --

18 MS. ROGERS: I was going to take the nine minutes  
19 that Mr. Phillips had.

20 THE COURT: Well, I had already been counting  
21 that.

22 MS. ROGERS: I was going to go to one, if that's  
23 okay?

24 THE COURT: Just short of one, yeah.

25 MS. ROGERS: Let's talk about what you're actually

**Defendant Summation/Ms. Rogers**

1 going to be deciding in the jury, room and I don't have a  
2 copy of the -- oh, one more thing.

3 Related-party transactions, they first ask for  
4 information about them in June 2019. That would become  
5 important when you see the charge.

6 All right. So, I don't know for sure what your  
7 jury verdict form will look like, but I have a feeling it  
8 will look a little bit like this; and this is how the NRA  
9 would like you to fill it out.

10 So, these related-party transactions are simply not  
11 grounds for liability on the part of the NRA. Most of these  
12 transaction, Mr. Butz, Ms. Froman, Ms. Hammer, these were in  
13 place years, years before New York enacted legal  
14 requirements about them; and once New York did enact legal  
15 requirements as Mr. Frazer's counsel told you, the NRA met  
16 in 2016 and reviewed and approved these, then ratified them  
17 in more detail later.

18 Marion Hammer, you've heard a lot about her. Their  
19 witnesses and our witnesses call her a legendary gun  
20 lobbyist. She's very effective. You heard testimony that  
21 the NRA pays lots of gun lobbyists, not just Ms. Hammer.  
22 You heard no evidence, none, that she's paid more than  
23 anybody else or she's overpaid for any of the work she  
24 does.

25 All right, Oliver North, this was a transaction

**Defendant Summation/Ms. Rogers**

1 that had a lot of problems with it. The Audit Committee  
2 ratified it based on a disclosure of what they thought were  
3 the material terms. As soon as they learned that there  
4 were additional and different terms of this transaction,  
5 that the deal wasn't what it seemed, they rescinded it which  
6 is exactly what the related-party transaction law  
7 contemplates. Okay, and that's the document you saw showing  
8 that they rescind it, rescinded in full.

9 Josh Powell, a disgraced departed executive. There  
10 were two related-party transactions involving him.

11 Mr. Frazer testified about how he personally  
12 researched a few thousand dollars that were paid to  
13 Mr. Powell's father to photograph a shooting event. He  
14 researched it and made sure it was the same that was paid to  
15 other photographers.

16 There was, also, a vendor camped McKenna that hired  
17 Mr. Powell's wife; but the NRA had been paying McKenna for  
18 years before Mr. Powell came into the picture, and it put  
19 very careful limits on the McKenna relationship after the  
20 Powell situation was discovered and then Powell was gone.

21 All right, whistleblowers. I'm going to ask you to  
22 find, first, if the NRA had -- had a compliant whistleblower  
23 policy.

24 So, the Court will tell you tomorrow that under  
25 New York law, any nonprofit is required to have a



**Defendant Summation/Ms. Rogers**

1 whistleblower policy with certain provisions and the policy  
2 doesn't have to match those verbatim; but it has to be  
3 substantially equivalent.

4 This is in general what your whistleblower policy  
5 has to do, and this is, in general, what the NRA  
6 whistleblower did. And how do we know that? Because the  
7 NRA whistleblower policy worked. Whistleblowers came  
8 forward and they were listened to. Even an anonymous  
9 whistleblower complaint by a deranged homophobe, was taken  
10 serious enough for the Audit Committee to investigate and  
11 confirm that the numbers in it were false.

12 So, the whistleblower policy complied with the law  
13 and we know that because it served its purpose.

14 Whistleblowers were treated very well at the NRA.  
15 You met two of them. This is -- Colonel North was probably  
16 the most powerful person at the NRA at the time that he  
17 styled himself as a whistleblower in a disingenuous way; but  
18 Sonya Rowling and Mike Erstling weren't, but they took a  
19 risk, and they were protected.

20 There's someone named Richard Childress whose name  
21 you've heard more in the closing arguments than any other  
22 time in this trial because the AG put no evidence about him.  
23 He's also not a whistleblower. He was a director who  
24 cosigned some of Colonel North's letters; and when Colonel  
25 North did not winning his battle for control of the NRA, so

**Defendant Summation/Ms. Rogers**

1 Mr. Childress resigned.

2 We talked about Mr. Journey. Mr. Journey made a  
3 disingenuous accusations in the bankruptcy that the NRA was  
4 a non-compliant charity, and then he policed money from NRA  
5 and directed it to a convicted felon.

6 Mr. Knight, no evidence on him. Not even sure if  
7 you will see him on the verdict sheet, but he's not a  
8 whistleblower. Same with Mr. Malone. No evidence at trial.  
9 He resigned from the NRA on his own terms, not someone who  
10 was retaliated against, not someone who was treated  
11 adversely.

12 Now, in order to cover that evidentiary gap, I  
13 expect you to hear from the Government this afternoon that  
14 even if these NRA directors who they're saying were  
15 whistleblowers, they weren't fired. They weren't punished.  
16 They weren't silenced, but people were mean to them on  
17 Facebook, all right. That's not the kind of adverse action  
18 that the judge will instruct you that a whistleblower  
19 violation contemplates.

20 The truth is and the truth you heard from the  
21 witness stand is that the NRA board vigorously disagrees all  
22 the time. Ms. Froman testified they had disagreements at  
23 meetings going late into the night, more like a parliament,  
24 a traditional corporate board. These are fiery opinionated  
25 gun right advocates and sometimes they disagree; but

**Defendant Summation/Ms. Rogers**

1 ordinary disagreements about people who have the same amount  
2 of power in an organization who are both directors is not  
3 whistleblower retaliation.

4 Whistleblower retaliation is much closer to what  
5 Colonel North tried to do, which was shut down the  
6 investigation into the corrupt advertising agency that was  
7 paying him \$7 million.

8 Rocky Marshall was never denied information. He  
9 tried to throw Mr. Frazer under the bus and claim that  
10 Mr. Frazer would not provide him with a copy of the NRA  
11 insurance policy. In fact, the testimony and documents show  
12 that Mr. Frazer bent over backwards to give this man every  
13 document he wanted, and this man never bothered to come and  
14 look at them. He made no effort to rejoin the board, and  
15 the board didn't reelect and he could have tried to run  
16 again and he didn't.

17 We talked board Colonel North, talked about  
18 Ms. Schneider.

19 All right, Mr. Spray. Mr. Spray was the CFO of the  
20 NRA who came after Mr. Phillips and before Ms. Rowling. You  
21 saw video testimony from both sides on Mr. Spray. You saw  
22 that Mr. Spray left the NRA. That it wasn't his decision to  
23 leave when he did, but that he had been thinking of leaving  
24 and that he asked the NRA to say he was leaving for health  
25 reasons.

**Defendant Summation/Ms. Rogers**

1           Mr. Spray had serious health reasons to leave the  
2 NRA; and even after he left the NRA, you heard, you heard  
3 the NRA's accountant, Mr. Plotts, testify after Mr. Spray  
4 left he called him up because he thought this is someone I  
5 want to talk to. He was in a senior financial role and he  
6 just left. What might he know that I should know to guard  
7 my findings on the NRA? And he heard from Mr. Spray what  
8 you heard from Mr. Spray, which is that Mr. Spray was  
9 supported by upper management in the compliance reform he  
10 implemented and he thought the NRA was on the right track,  
11 and we've given you all the citations to that because that's  
12 what's in the record and that's what the facts show.

13           All right, Mr. Frazer's counsel talked to you a bit  
14 about the allegedly false filings that we made, so I won't  
15 belabor it.

16           Inconsistencies are not lies. The fact that you  
17 could fix this issue by having software checked to make sure  
18 that every page is attached is exactly the same. Shows that  
19 a serious audience reviewing that filing to get information  
20 about the nonprofit would know there was something in there  
21 relating, for example, to compensation for board members and  
22 that's the test for materiality.

23           All right, and you'll be asked about the  
24 administration of the NRA's charitable assets. I expect  
25 this to be a long several paragraphs; and the parts of it I

**Defendant Summation/Ms. Rogers**

1 want to highlight for you is that you will be considering  
2 whether the NRA in doing what it did was pursuing its  
3 legitimate purposes, was trying to advance the mission.

4 You will be asked whether the NRA board acted in  
5 good faith, whether they wanted what was best for their  
6 association and whether they exercised care.

7 And, remember, ordinary care is not looking back  
8 with 20/20 hindsight. One thing Mr. Tenenbaum, their  
9 government expert said that I really credit, is he called it  
10 the in-their-shoes test.

11 When you're evaluating ordinary care, you have to  
12 imagine that you stand in the shoes of the NRA's board of  
13 directors when it is making these decisions with whatever  
14 limited information and whatever incentive it had.

15 And the part of good faith and ordinary, the Court  
16 will tell you they can rely on outside experts. And you  
17 heard Mr. LaPierre testify yesterday, gave you lists tax  
18 lawyers, regular lawyers, tax accountants, auditors,  
19 forensic accountants, a list of experts that were hired by  
20 the NRA because it was willing to go every mile to get it  
21 right.

22 And you will be asked to consider in the jury  
23 charge whether misconduct that happened was by the NRA or  
24 against the NRA, and I think the testimony is unequivocal on  
25 that.

**Defendant Summation/Ms. Rogers**

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All right, first day we met, we heard hours of opening statements; and then at the very end, I talked to you for about ten seconds about self-defense and about my experience in self-defense. And the Attorney General objected all over the place. They didn't want you to hear that stuff or think about it; and the reason is and it is true, this has not been a case about the rights to buy a gun. That's not what this case is about, but this was very much a case about self-defense, about the right to defend yourself and the choice to do it, because that's what the NRA did.

The NRA was told by whistleblowers that it faced threats, threats from corrupt vendors and negligent executives who are taking advantage of it. The NRA was told by the attorney general's predecessor that there was mounting political pressure to attack the NRA even if it hadn't really done anything wrong; and the NRA leaned in and double-downed and that board defended itself. They left no stone unturned. They hired lawyers and during this trial you heard them faulted for doing that. They shouldn't have spent money on lawyers to fix the organization or to defend themselves from us. That's what the government is telling you.

And another thing the Government is telling you

**Defendant Summation/Ms. Rogers**

1 today, they're going to ask to you find cause for removal  
2 of executives. They're asking you to tell the NRA, You  
3 don't get to choose your own leaders. You don't even get to  
4 choose your own lawyers. The Government gets to choose for  
5 you.

6 I talked to you the first day of this case about  
7 the differences between a scam charity, the kind that we  
8 want the government to protect us from, the kind that holds  
9 out its hand collecting alms for the poor and then  
10 improperly administers that money by spending it, private  
11 benefits for themselves.

12 We talked about differences between that kind of  
13 scam and the nonprofit like NRA that pursues its legitimate  
14 purposes and confronts the real risks of fraud and abuse  
15 that every large organization does. What matters what's  
16 dispositive isn't whether that risk existed. It was how the  
17 NRA acted when it came to light.

18 The first words you heard from the attorney  
19 general, the first day we met she said this is a case about  
20 corruption. But I ask you, if this is a case about  
21 corruption, why would the attorney general seek to impose  
22 the corporate death penalty on a nonprofit that an  
23 independent and public accountant found was governed better  
24 than 75 percent of other charities? Why? If this is a case  
25 about corruption, it wasn't corruption by the NRA.

## Defendant Summation/Ms. Rogers

1 Thank you.

2 THE COURT: All right, thank you, counsel.

3 We're going to take our break. We'll reconvene a  
4 little after 2:15.

5 COURT OFFICER: All rise, jury exiting.

6 (Whereupon, at this time the jury then left the  
7 courtroom.)

8 (Whereupon, at this time at luncheon recess was  
9 then taken.)

10 \* \* \* \* \*

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12 (Continued on next page)

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## Plaintiff Summation/Ms. Connell

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## AFTERNOON SESSION

\* \* \* \* \*

THE COURT: Ms. Connell, you may proceed.

MS. CONNELL: Thank you very much, your Honor.

SUMMATION BY

MS. CONNELL:

MS. CONNELL: Ladies and gentlemen of the jury, what happens when someone is caught in the act, when someone is caught with their hand in the proverbial cookie jar? When they are caught literally with their hand in the cookie jar with crumbs on their face, on their clothing, what are they going to do?

What does our common sense and life experience tell us they're going to do?

Well, first, they're going to deny about where there's evidence that they have been caught in the act. That won't work.

So, what are they going to do next? They're going to deflect. They're going to try and get you to think about anything but what happened to those cookies, what was going on when those cookies were being eaten. They're going to blame it on others. They're going to point the finger at other people and blame anyone but themselves.

## Plaintiff Summation/Ms. Connell

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They're also going to decide that a good offense is the best defense. They might say why are you even watching this cookie jar? What difference does it make? Why are you looking at me? Leave me alone. They might try and minimize what they did. That's natural. We've seen this in our everyday life when people do something wrong. They will say, well, it wasn't that big a deal. It was a few cookies. What's the harm? It is a small harmless violation. It's a foot fault, right.

And then when none of these work, they're going to come to the final step. They're going to say, you know what, I get it. What I did was wrong. I understand. I won't do it again. You don't have to keep watching me. Everything is fine.

But, ladies and gentlemen, when you're caught in the act, when you're being watched by a government regulator, when you've been found in the middle of committing illegal conduct; saying you're sorry now, saying maybe you'll put back a couple of those cookies doesn't mean you didn't take the cookies.

If a burglar took something from someone's home, got caught, got arrested and said, Hey, I'm sorry I'll, return some of the stuff, maybe. I won't do it again. Okay, that's a positive step, that's good; but that doesn't

**Plaintiff Summation/Ms. Connell**

1 mean they're not responsible for the burglary.

2 What you have seen in this case, in this trial and  
3 I think we've seen that at times the cases are talking past  
4 each other, is exactly this. Although, the defendants are  
5 not kids and we're not talking about a cookie jar. We're  
6 talking about something much more serious. We're talking  
7 about hard-earned funds donated to a charity. We're talking  
8 about the trust of NRA donors and members, and the trust of  
9 people in general in charities.

10 Even though that's what we're talking about, like  
11 the kid in this metaphor, like somebody putting their hand  
12 in a cookie jar, the defendants have done each of the steps  
13 that I talked about. They have deflected. They have blamed  
14 each other. They have said that their violations are true;  
15 but now they understand. Again, stopping illegal conduct  
16 after you're caught, after you're being watched does not  
17 make your conduct disappear.

18 Please keep your eye on that ball.

19 Again, we're not saying that efforts to reform are  
20 unimportant. We're not -- they are important. The need for  
21 reform is important in that they follow through, that's  
22 important. It doesn't mean illegal conduct didn't occur,  
23 and I'm going to talk to you about that reform, that course  
24 correction.

25 Think about whether the evidence the defendants

**Plaintiff Summation/Ms. Connell**

1 have put on in this case disproves the illegal conduct that  
2 plaintiff has shown, and I'm going to walk you through some  
3 of that illegal conduct.

4 Think about whether when defendants told the same  
5 story when it was convenient for them and when they pointed  
6 the finger at each other when that was more convenient for  
7 them.

8 Instead of disproving most of the allegations  
9 alleged by plaintiff; for example, instead of disproving  
10 that the defendants illegally approved conflict-of-interest  
11 payments to the MMP entities without contracts that support  
12 those payments, without necessary approvals, without  
13 ensuring that they're getting good services -- and we'll  
14 talk about that in a second -- in support of those payments.  
15 They didn't focus on that.

16 What did they do? They went on the offense.  
17 That's what a lot of the closings you've heard about today  
18 were. The closings were about how this is a witch hunt.  
19 That the attorney general said that they're terrorist  
20 organizations, the same attorney general who's trying to get  
21 money back that was wrongfully taken from the NRA to give  
22 back to the NRA. How does that make sense that this is  
23 wrong?

24 They are a charity regulated in New York and even  
25 by their own admission they have done things wrong. This

**Plaintiff Summation/Ms. Connell**

1 witch hunt defense is not a defense. When we said, Hey,  
2 you've been paying insiders and you need to make sure that  
3 you're doing the right thing, you need to make sure you're  
4 approving that; they looked at their records, they are  
5 paying insiders, they have been.

6 When we said you have sweetheart deals to vendors,  
7 they're a conflict of interest, turns out we were right.

8 When we said you're hiding your payment by passing  
9 them through a vendor so people can't see that you're paying  
10 for thousand-dollar-a-night hotels, permanent electronics  
11 for executives and their families.

12 That turned out to be true. That's not a witch  
13 hunt. That's the truth. And this witch hunt narrative  
14 that's not a defense, I just want to take that off the table  
15 right at the beginning.

16 The defendants whole defense of this course  
17 correction starts not because of an internal driving  
18 commitment to compliance. It starts by their own admission  
19 with a 2017 call from the former Attorney General of the  
20 State of New York, Eric Schneiderman, telling them,  
21 essentially, you better put your house in order.

22 If that call hadn't been made, if this  
23 investigation hadn't been commenced, if we weren't on trial  
24 now do you believe that much of the reforms that they're  
25 touting now would even have taken place? I would suggest to

**Plaintiff Summation/Ms. Connell**

1 you the answer is no.

2 Finally, we heard a lot of talk about witnesses in  
3 this case; but the State's case -- and that means the people  
4 the State puts on, with the exception of two experts whose  
5 qualifications were not doubted and two witnesses for  
6 long-time vendors of the NRA were entirely current and  
7 former NRA directors and employees.

8 These are the people who care about the NRA's  
9 mission, who care about its success; and they came in here  
10 to tell you about what they saw that was wrong and what was  
11 truly going on in the NRA. And I would point out that our  
12 witnesses that we called include John Frazer, Sonya Rowling,  
13 Michael Erstling, Craig Spray and others.

14 And to the extent that counsel tries to imply that  
15 Ackerman is Team NYAG, we didn't pick Ackerman. We don't  
16 support Ackerman engaging what the NRA now says is  
17 fraudulent conduct.

18 The contracts with Under Wild Skies were  
19 fraudulent. The payments to Tony Makris were fraudulent.  
20 The payments to Ackerman were fraudulent. The NRA wants to  
21 pretend that's something that happened to them, somehow,  
22 someday. That's not an accident.

23 We're going to walk you through the timeline.  
24 That's conduct they chose. Those are vendors they chose.  
25 They chose to engage in the out-of-pocket expense

**Plaintiff Summation/Ms. Connell**

1 reimbursement process. They chose to engage in these type  
2 of conduct. So, when we call in a witness from Ackerman to  
3 testify, that's the witness that the NRA chose to do  
4 business with for two decades.

5 That's not team NYAG. That's their -- that's their  
6 vendor. That's the people they stood behind for years until  
7 it got to be inconvenient for them.

8 In sum, the documents for the most part, the bulk  
9 of it, 99 percent of this case is proven by the NRA's own  
10 documents, by their own witnesses, by the documents of the  
11 vendors they chose to do business with. That's where this  
12 evidence comes from.

13 So the non-defense of this is a witch hunt should  
14 be taken off the table right now.

15 Now, let's go back to something we heard a lot  
16 about in these openings.

17 When I stood before you six weeks ago, I started  
18 out and the first sentence I said to you was, "This case is  
19 about corruption."

20 Well, let me tell you something, this case is about  
21 corruption. It is. It is about the misuse of charitable  
22 funds that we've proven were spent for things, like, private  
23 jets -- and we'll talk about why that was wrong --  
24 limousines and black cars, Glam Squad, meaning hair and  
25 makeup expenses, up to see \$60,000 expenses that we can

1 document. Five-star hotels, hundreds of thousands of  
2 dollars of suits from a store in Beverly Hills, million  
3 dollar deals to insiders, payments to loyal board members  
4 and pervasive violations of internal controls.

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**Plaintiff's Summation/Ms. Connell**

1 MS. CONNELL: The Defendants in this case are the  
2 NRA, and let me stop for one second because we have had a  
3 little slight of hand here.

4 A corporation, the NRA, any company, Apple, any  
5 company, it's an idea. It's a legal concept. A corporation  
6 acts only through its people. It is liable for the actions  
7 of those people.

8 The judge will explain the law to you, but the NRA  
9 will have to prove that it is not liable for the actions of  
10 Wayne LaPierre, Wilson Phillips, John Frazer and other  
11 executives whom it allowed to violate the law. It can not  
12 walk away and say the NRA didn't know about what they were  
13 doing or the NRA is not responsible for it.

14 Wayne LaPierre was the EVP of the NRA until  
15 February 1, 2024. He left with no discipline, no  
16 suspension, under his own steam. They can not walk away  
17 from his conduct. He was the man who led and controlled the  
18 NRA with the band of loyal insiders for over 30 years.

19 The other defendants are, of course, Wayne  
20 LaPierre, John Frazer and Wilson Phillips, and they helped  
21 create this culture of corruption. They helped carry out  
22 this corruption. They didn't do it by themselves. They had  
23 help. There were key loyal and entrenched Board members at  
24 the NRA who have been there for decades, at times who have  
25 supported, covered for and insured Wayne LaPierre's

**Plaintiff's Summation/Ms. Connell**

1 continued control and dominance. And now that he's gone,  
2 they are still in control. Every one of them is still with  
3 the NRA, every single one of them, and you have seen a lot  
4 of names. You have seen Mr. Cotton. You have seen Ms.  
5 Froman. And let's talk about this for one second. I just  
6 want to step aside -- step out of this for one second.

7 I said a corporation acts through its people, and  
8 that's true. People are complicated. People are not always  
9 just one thing. They are not -- you can be someone who  
10 cares about the NRA and still wrongfully takes its money and  
11 spends it at the same time. You can be someone who is a  
12 good or nice person but fails in their fiduciary duties at  
13 the same time. You can be someone who is smart,  
14 accomplished, well-meaning like Ms. Froman who came up and  
15 testified, who is impressive by any standard, but who still  
16 does things that maybe she shouldn't.

17 Remember when she was questioned about the cheat  
18 sheet -- about the cheat sheet that helped keep Wayne  
19 LaPierre in control? We heard so much testimony about the  
20 free and independent nominating committee, but you saw that  
21 she was told -- she was given a cheat sheet, told who to put  
22 on that nominating committee. That's who ended up being on  
23 the nominating committee, and you will see -- you saw  
24 evidence. I will go through some of it, that that  
25 nominating committee controls the Board of the NRA.

**Plaintiff's Summation/Ms. Connell**

1           So these key loyal Board members helped and cover  
2           for LaPierre. They helped and covered for the entrenched  
3           leadership. I mean, they are the entrenched leadership.  
4           They help and cover for the misconduct. They have taken  
5           part in some of the reforms.

6           Again, we are going to talk about those reforms,  
7           but they have also taken part in steps that have allowed the  
8           NRA to get to the point that it's at.

9           Remember discussing safeguards in place to protect  
10          charities and assets? You have seen evidence that each of  
11          the first four of these have been pervasively violated or  
12          violated or breached by the defendants. You've seen  
13          breaches of fiduciary duties. You've seen rampant  
14          violations of internal controls. They have been referred to  
15          as nitpicking.

16          I would suggest to you that not getting required  
17          approvals for contracts under which say a treasurer could  
18          get paid millions of dollars is more than nitpicking. It's  
19          more than just a little mistake. It's in violation of the  
20          trust that the NRA and its member should be able to put in  
21          the treasurer.

22          You've seen whistleblowers violations, and we're  
23          going to talk about those. We're going to talk about false  
24          statements on the NRA's regulatory tax filings.

25          At the beginning of this case I talked to you about

**Plaintiff's Summation/Ms. Connell**

1 the import of each of these. I'm not going to go through  
2 all of that again, but I'm going to say that as we talk  
3 about the evidence in this case, keep in mind how each of  
4 these safeguards has been overridden by the defendants.

5 Plaintiff has presented evidence that tens of  
6 millions of dollars in payments that Wayne LaPierre has  
7 approved to his friends, supporters and loyalists without  
8 written contracts, without necessary approvals, without  
9 deliverables, without any clear indication of what services  
10 and goods the NRA is supposed to get in response, and I want  
11 to stop there again for a second and say this.

12 You have heard a lot of conclusory statements.  
13 David Keene made speeches. He's a great speaker. He may be  
14 a great speaker. Why is he paid a flat rate? How many  
15 speeches did he make in any given year? Did he make a  
16 speech every year? Should he have been paid the amount he  
17 was paid by the NRA or would a better practice have been  
18 that he actually delivers goods and services and the NRA  
19 gets the value of its bargain? That's not what happened  
20 here. He is a supporter and a friend of Wayne LaPierre, a  
21 former president of the NRA, and he was paid a flat rate for  
22 years. As was Sandy Froman. I'm sure she's an excellent  
23 speaker. I'm sure she knows a lot about Second Amendment  
24 law, but she was paid a flat rate as a portion of the  
25 expenses of her law office business, and we don't know --

**Plaintiff's Summation/Ms. Connell**

1       you didn't hear one witness say how many speeches did she  
2       give. Who else could they have gotten for less money?  
3       Those were not reimbursable for cost. They were average  
4       monthly rate.

5                She testified, yeah, I got about \$3,700 a month.  
6       We don't even know if she did a speech in some years. She  
7       got paid that because she was a loyalist. A LaPierre  
8       loyalist.

9                And the violation of internal controls stopped us  
10       and stopped the NRA of what was delivered, what was supposed  
11       to be delivered and what they are paying for.

12               In fact, you heard from Mr. LaPierre yesterday that  
13       the NRA was defrauded -- those were the NRA's words. Those  
14       are his words -- under some of the agreement he and Mr.  
15       Phillips got the NRA involved in. These are some of the  
16       arrangements to which Mr. Frazer turned a blind eye, and  
17       we'll talk about that.

18               You have seen evidence that is sometimes shocking,  
19       sometimes lurid, I think, but I suggest to you that most of  
20       it is sad. Most of it is sad.

21               This is not a case as Mr. Correll said in his  
22       opening statement about Government intrusion into personal  
23       lives. This is a case about whether when people donate  
24       money to a charity, that money should go to the mission of  
25       the charity or if it should go to buy -- I don't know --

**Plaintiff's Summation/Ms. Connell**

1 very expensive hair and makeup services for Susan LaPierre  
2 or should it go to pay for Mr. Phillips to commute without  
3 Board approval from Dallas where he is working as CFO and  
4 treasurer of the NRA or should it go to pay for Tyler  
5 Schropp the head of advancement to stay in hotels that cost  
6 a fortune in violation of NRA travel and approval processes.

7 The NRA let all of this happen for years. That was  
8 a failure to safeguard charitable assets in their care.  
9 They allowed the Defendants' conduct to continue, and that's  
10 what this case is about.

11 When we first started talking weeks ago, in my  
12 opening statement I talked about how could somebody like  
13 LaPierre and his entrenched leadership, his friends maintain  
14 control. How can they get away with this for decades? And  
15 I talked about the four S's, self-serving management,  
16 spending, secrecy and suppression.

17 You have seen evidence of all of them. We don't  
18 have time to walk through all of the examples, but I'd like  
19 to talk about one that was one that came up in other  
20 counsels' closing statements. This is Oliver North.

21 Oliver North and the NRA engaged in an illegal  
22 related-party transaction. Let's be clear about that. They  
23 did.

24 Now, let's look at who helped that transaction  
25 along because it is a textbook example of how Wayne LaPierre

**Plaintiff's Summation/Ms. Connell**

1 maintained control of the NRA using people he hand-picked  
2 and put into their position because they would help him out,  
3 how he used suppression, secrecy and spending to get what he  
4 wanted and maintain control.

5 Oliver North -- and by the way, when we talk about  
6 this one example where there is a -- where there are  
7 contested facts, I am going to use Defendants' facts, and I  
8 am going to show you that Plaintiffs still should win in  
9 this case.

10 So Oliver North was a long-time Board member,  
11 friend of LaPierre. He was in Wayne LaPierre's wedding.

12 Remember, according to Tom King in late 2017, the  
13 NRA had been warned that it may be subject to Government  
14 scrutiny.

15 You heard Colonel North and others testify that in  
16 late 2017, early 2018, then NRA president Pete Brownell  
17 decides he will not run for a second term. Wayne LaPierre  
18 is in trouble. He knows the NRA is being looked at. He  
19 knows the NRA is in trouble. North and others said the NRA  
20 was being looked at for possibly ties or even appropriate  
21 ties to Russia. Brownell is stepping in. LaPierre could  
22 step back and just let this whoever the normal election  
23 process turns out to be the next NRA president, he could let  
24 that play out. That's not what he does because he can't  
25 risk that lack of control. He goes to his playbook, and he

**Plaintiff's Summation/Ms. Connell**

1 does what he's done when he's backed into a corner.

2 If you remember in the late nineties, he was facing  
3 a challenge to his power, and he went and got Charlton  
4 Heston to be the president of the NRA. This time he turns  
5 and looks around. He finds Oliver North. He's successful  
6 especially in the conservative circles on television. He  
7 has a successful career. He's making a lot of money at Fox  
8 News, and he gets a lot of votes for the Board when he runs  
9 for the Board. He is high profile.

10 What does Wayne LaPierre say to Oliver North? He  
11 says, I need you as president. You have to be president. I  
12 need you as my next president. We need somebody like you,  
13 and there's nobody else like you.

14 Oliver North testified to this that he was  
15 solicited by Wayne LaPierre. You didn't hear anyone deny  
16 it. It wasn't denied. It's an admitted fact.

17 You heard Oliver North for good or for ill be  
18 upfront with Wayne LaPierre, and he knew it was a volunteer  
19 position and he wouldn't do it as a volunteer. He wasn't  
20 going to leave his high-paying job to take a volunteer  
21 position, and he needed health insurance for his wife who  
22 was suffering from a really serious and terminal illness at  
23 the time. And he said, I can't take it without a job. I  
24 can't take it. Nobody contested that.

25 And what happened? Wayne LaPierre said, I'll take



**Plaintiff's Summation/Ms. Connell**

1 care of that. I'll take care of it. And Wayne did. Wayne  
2 said, I've got to have you as the next president of the NRA,  
3 and I can make that happen, and at the end of it, Wayne did  
4 take care of it. Again, North was clear. I need to be  
5 employed. I couldn't be an outside contractor. I have to  
6 be an employee to get health insurance. And LaPierre made  
7 sure he did.

8 Let's think about that for a second. The head of a  
9 charity is going to go dictate who is going to be the next  
10 Board president of that charity. He is going to use a  
11 vendor, Ackerman McQueen, to secure multi-million dollar  
12 employment for that new president, and he's going to have  
13 the NRA pay for that. He's going to back door it. He's  
14 going to pass through those costs. Why? It's secrecy.  
15 It's hiding. It's hiding that payment through the NRA by  
16 the NRA through Ackerman McQueen.

17 The next thing you know, and by the way, notice  
18 about this employment agreement, there is something that  
19 should jump right out at you. It says "Employment  
20 Agreement" right across the top. Okay. This is important  
21 because if you remember a year later, Josh Frazer is going  
22 to say, well, we didn't understand he was an employee. We  
23 thought he was an independent contractor, and that makes all  
24 the difference. We will talk about that in a second.

25 So the next thing you know without preparing a

**Plaintiff's Summation/Ms. Connell**

1 nomination packet, without going to the nominating  
2 committee, without being interviewed, without campaigning,  
3 North is made the next president of the NRA. Wayne said he  
4 would take care of it, and he took care of it. He was  
5 installed.

6 The NRA says it was somehow tricked. Again,  
7 because they thought he was an independent contractor. But  
8 even if we take the uncontested evidence here, right; even  
9 if we take Josh Frazer's testimony that he didn't get a copy  
10 of the employment agreement and the Audit Committee didn't  
11 get a copy of the employment agreement, we have uncontested  
12 testimony from Oliver North, and he said that he gave Wayne  
13 a copy of the employment contract. Wayne was in the room  
14 when it was signed. Wayne got a copy.

15 Guess who else got a copy? Wilson Phillips. He  
16 said Melanie Montgomery of Ackerman handed him an envelope  
17 that had the employment agreement in it. He assumed it was  
18 the executed version. So they both had a copy of an  
19 agreement that said "Employment Agreement" across the top.

20 LaPierre knew about the agreement and the nature of  
21 the agreement. He was at the meeting where it was signed.  
22 Phillips knew about the agreement. It was executed in May  
23 of 2018, and it was a related-party transaction. It was not  
24 approved in advance. This is during the course correction.

25 The course correction has begun. The 360-degree

**Plaintiff's Summation/Ms. Connell**

1 review has begun, and Wayne LaPierre just got his friend a  
2 multi-million dollar deal.

3 In September 2018, the Audit Committee meets to  
4 retroactively ratify that transaction. The judge is going  
5 to explain the law to you, but when the Audit Committee  
6 wants to retroactively ratify something, it has to meet some  
7 fairly stringent requirements.

8 It has to look at whether the agreement is fair and  
9 reasonable. It has to consider alternative transactions.  
10 It has to document and look at where was the failure, why  
11 wasn't this approved in advance. You are going to see that  
12 none of that was done here.

13 The Audit Committee didn't call Oliver North and  
14 ask him the questions. They didn't call Wayne LaPierre and  
15 ask any questions. John Frazer testified they did not have  
16 a copy of the contract but only a summary. But taking  
17 Frazer's version as the truth, if having that contract was  
18 so important, wouldn't you expect the general counsel, the  
19 highest legal officer of a corporation and the secretary of  
20 the Board to raise a concern about it; to raise an issue; to  
21 say, Hey, I need to know what this contract says. We need  
22 to look at its terms. We need to be clear.

23 He doesn't do -- he didn't do that. Does he take  
24 any steps to try and block the ratification? No.

25 You saw those minutes at PX 2983. You can ask for

**Plaintiff's Summation/Ms. Connell**

1       them. It does not indicate that this is a provisional  
2       approval. It does not indicate it's a provisional based  
3       upon meeting North's contract. And you can take a look on  
4       the first page of PX -- of this document, PX 2983, and you  
5       will see that there were no less than three attorneys  
6       present. Steve Hart, outside counsel; John Frazer and Sarah  
7       Rogers of the Brewer Firm.

8                You heard that Frazer has input and feedback into  
9       the minutes of the Audit Committee at times, and a lot of  
10      counsel made reference to attempts by the Attorney General  
11      to object to certain minutes or documents going into  
12      evidence. You're right we did.

13              When there's evidence that a document might not be  
14      the genuine article, where it might not be authentic, where  
15      it is not what it says it is, where it's a self-serving  
16      document that is not reflected in what was reported to the  
17      Board, you bet we're going to object to that. There is  
18      nothing wrong with that. And I want to point out to you  
19      that the evidence that you should consider in making your  
20      decision is the evidence that's admitted in this case that  
21      you find believable. It's not the argument of attorneys,  
22      you and me. It's not the objections or discussions about  
23      the evidence. It's the evidence put in this case, the  
24      testimony and exhibits you find believable.

25              Again, Mr. Frazer said that he could not get a copy

**Plaintiff's Summation/Ms. Connell**

1 of the North contract. Again, taking this as true, taking  
2 Mr. Frazer's testimony as true that he asked for it and he  
3 couldn't get it, why didn't he do something? Why was he so  
4 passive? Why acquiesce?

5 Again, if you look at that exhibit, you will see  
6 that he was actually the secretary of the Audit Committee at  
7 that meeting. Why didn't he note that failure in the  
8 minutes? In the report. Excuse me. Because he acquiesced  
9 and enabled LaPierre's friend to get a lucrative  
10 related-party contract.

11 Ask yourself was the GC an officer who's holding  
12 the NRA to the law, who's trying to stop inside baseball or  
13 who is showing undivided loyalty to the NRA? No. No, it's  
14 not.

15 And by the way, to breach a fiduciary duty doesn't  
16 mean you have to take money from the charity and put it in  
17 your own pocket. You can also fail to object or fail to try  
18 and stop obvious breaches. You can fail to stop or take  
19 action when you see someone harming the organization you're  
20 supposed to have undivided loyalty to.

21 After that, Lieutenant Colonel North talked about  
22 serving as president. He talked about showing up. He  
23 talked about doing the job. You heard about him starting to  
24 have concerns. He talked about members complaining about  
25 cuts to mission services. We will talk about evidence that

**Plaintiff's Summation/Ms. Connell**

1 shows that.

2 He talked about members worrying about spiraling  
3 costs at the NRA. He ultimately asked Craig Spray for some  
4 breakdowns of that cost and he was flabbergasted by the  
5 legal spend.

6 He asked to see invoices. He -- and there is  
7 documents in front of you. He found that the spending on  
8 legal was \$19 million in one year for the Brewer Firm alone.

9 Now, no one is saying the NRA can not defend  
10 itself. No one is saying the NRA can not spend money as it  
11 sees fit. But when a Board officer says that's a lot of  
12 money, I have legitimate concerns about it, and you can read  
13 the exhibits I'll list for you that outline his concerns,  
14 he's allowed to ask to see those invoices, and he's allowed  
15 to ask for an outside independent audit which is what he and  
16 Richard Childress and at a time Carolyn Meadows do.

17 Please ask to see PX 390, PX 334 and PX 4942 and PX  
18 1683.

19 When Oliver North would not drop asking about the  
20 legal spending, and Defendants try and say, well, he  
21 couldn't see it because there is a conflict of interest, he  
22 couldn't see it because there was a -- he worked for  
23 Ackerman, so there was a problem. That's not really  
24 conflict that would prevent the president of an organization  
25 from looking at legal invoices. But even if it were, he was

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1 asking for an outside independent audit. They could have  
2 just proceeded with that and avoided the conflict. That was  
3 not done, and you heard evidence, you have heard people say  
4 a forensic audit was performed. The Brewer bills were  
5 audited.

6 Have you seen any evidence of that? You haven't  
7 because it wasn't done.

8 You heard Mr. Cotton testify that in one case one  
9 insurance company looked at a couple of bills before they  
10 paid them. That is not an independent audit of the  
11 \$19 million in spending that Colonel North was concerned  
12 about.

13 Colonel North also complained with Richard  
14 Childress about other things, like allegations of corruption  
15 that were being launched in the newspapers, in news articles  
16 and in material that was being released by Ackerman McQueen.  
17 And he asked for formation of a committee, and he asked that  
18 that be looked into. His requests were ignored.

19 At this point Oliver North is a whistleblower.  
20 It's uncontested. So what happens? He's ignored. He's  
21 ignored.

22 It's true the NRA did look into the first complaint  
23 they had which is whether the Brewer Firm and Richard  
24 Childress and Carolyn Meadows had which is whether the  
25 Brewer Firm was properly retained. You can look at the memo

**Plaintiff's Summation/Ms. Connell**

1 that was prepared on that, and it was found that they were  
2 not, but his request for an outside audit were ignored, and  
3 he told you why, and this also was uncontested, and it's  
4 pretty shocking.

5 Colonel North said that Wayne LaPierre told him  
6 only Brewer could keep him out of an orange jumpsuit. Only  
7 Brewer could keep him out of jail. So leave him alone.  
8 Stay in your lane. That's a salaried officer of a charity  
9 speaking to the Board president saying, stay in your line.  
10 Mind your business. Don't ask questions about the guy who  
11 is going to keep me out of jail for my conduct within this  
12 charity. And you didn't hear that contested.

13 When he refused to let up, that's when the  
14 suppression and the whistleblower retaliation began. I  
15 would urge you again to look at PX 1313A and 1789.

16 At the member meeting in Indianapolis in 2019,  
17 North learned for the first time that LaPierre would not  
18 support his and Richard Childress' renomination as Board  
19 officers.

20 He talked about how Childress actually yelled at  
21 LaPierre about it. He said not only are you not supporting  
22 it, you have spoken to every member of the nominating  
23 committee. We're not going to be renominated. They know  
24 they're out. They can't get reelected on a petition at the  
25 last minute. They are gone. LaPierre's control worked.



**Plaintiff's Summation/Ms. Connell**

1 North is out. And this shows the suppression. This is how  
2 LaPierre and his circle of supporters maintained control  
3 within the NRA. LaPierre did not deny any of this. He  
4 couched it as a failed "coupe attempt" quote unquote, but  
5 there was no evidence that anyone was coming for his job.  
6 There is no evidence that North was trying to become EVP.  
7 LaPierre -- I mean, North was perceived as disloyal to  
8 LaPierre, and his days were numbered.

9 And then what happens? North says he returns to  
10 his home. He starts to live life as normal. He is still a  
11 Board member. In May 2019, just about a year after the  
12 contract went into effect, suddenly the Audit Committee  
13 springs into action and looks at the contract again, the  
14 same one it had ratified in September 2018. You can see  
15 this exhibit. They revisit it again, and this time, they  
16 find it is a conflict of interest. The same arrangement,  
17 the same contract set up by Wayne LaPierre.

18 And this time -- and you can see -- by the way,  
19 that's PX 517. You can ask to review it. That's not where  
20 the retaliation, where the intimidation, the harassment and  
21 retaliation stop.

22 And by the way, I think counsel pejoratively said,  
23 Well, just because you get yelled at in a spirited debate,  
24 that's not retaliation.

25 The law prevents intimidation, harassment and

**Plaintiff's Summation/Ms. Connell**

1 retaliation, and I would submit to you that what happened to  
2 Colonel North, even though he engaged in illegal  
3 related-party transaction was clearly whistleblower  
4 retaliation.

5 First, his contract was revised and not ratified.  
6 Then he faced an ethics complaint by no other than Tom King,  
7 one of the NRA witnesses loyal to LaPierre who appeared  
8 here.

9 And you saw some of Tom King's texts talking about  
10 members of the floor wanted reform. Remember he said, get  
11 me their names. Get me their names. There are ways to  
12 neutralize people. That's the Tom King you heard from.

13 In any case, Tom King files an ethics complaint  
14 against North. North has to hire an attorney. He has to  
15 fight against that. That takes time.

16 What follows is two separate lawsuits brought by  
17 the NRA against North. The first one is before he even  
18 asked for payment of attorney fees, he let the NRA know,  
19 hey, I've incurred attorneys' fees responding to a subpoena  
20 in congressional matters. I might ask for payment. They  
21 bring an action for declaration.

22 The second one is for a declaration that they can  
23 oust him as a member. That's what we heard North testify.  
24 So he's subject to two lawsuits. North was retaliated  
25 against a whistleblower. I'm sorry I spent a long time

**Plaintiff's Summation/Ms. Connell**

1 talking about this example. I'm not going to spend as much  
2 time speaking about other pieces of evidence, but this is a  
3 textbook example of how NRA leadership is willing to shell  
4 out the millions, using vendors to hide it, that these  
5 elections are under the control of LaPierre and his  
6 entrenched leadership, that they're willing to use  
7 suppression, intimidation, harassment and retaliation to  
8 quiet those who would threaten them and that they took part  
9 in the efforts to spread NRA money to friends of Wayne  
10 LaPierre. And that's all in the space of one year. And  
11 this is while the course correction is underway that this  
12 takes -- this takes place.

13 So we spent some time on the story of Colonel  
14 North. I want to move on from there and talk about a little  
15 bit about the corruption. I'm not going to go through  
16 everything again, but I'd like to go through some of the  
17 things just to make sure you see that what we told you we  
18 would show, we showed.

19 Let's talk about travel expenses. You know the NRA  
20 has a travel policy that prohibits charter travel without  
21 prior written authorization. It requires that travel on  
22 behalf of the NRA be in the most cost-effective manner  
23 necessary. It's uncontested that LaPierre violated this  
24 policy for years. It is uncontested. You didn't see a  
25 Board authorization letting him fly by private jet. It is

1 uncontested that that is not the most cost-effective way for  
2 LaPierre to travel. Did that stop LaPierre? Not at all.

3 We put in evidence about his use of private jets  
4 for both business and personal reasons. And by the way, I  
5 wanted -- I want to avoid a little bit of gaslighting that's  
6 going on here.

7 Whether LaPierre was using private jets for  
8 business or personal reasons does not matter. He violated  
9 the travel policy. Could he be entitled to a credit for the  
10 cost of a plane -- of a commercial plane ticket? Maybe.  
11 But he can't take NRA funds, take private jets and fly all  
12 around to wherever he wants. That's a violation of the  
13 NRA's policy. I submit to you it's a misuse of the NRA's  
14 charitable assets. You don't have to believe me. You can  
15 look at his conduct. You can look at his conduct.

16 If he had a security need for those flights, what  
17 could he have done? He could have talked to the Board.

18 (Continued on the following page.)  
19  
20  
21  
22  
23  
24  
25

## Plaintiff Summation/Ms. Connell

1 (BY MS. CONNELL)

2           Could have talked to the board, could have asked  
3 for the formation of a security committee. He could have  
4 said let's address the best way to keep me safe and let me  
5 do my job. He could have said let's cost out the best and  
6 most secure travel. Let's see how we can get this done and  
7 keep the record safe.

8           Did he do that and get a board resolution approving  
9 that? He did not.

10           What did he do? He booked travel through his  
11 private travel agent verbally, not in e-mail. Not using the  
12 NRA's travel agent, right?

13           Woody Phillips asked her to split the billing into  
14 two companies. So, she billed for the same services, same  
15 person, same location. She billed through two companies,  
16 GS2 and I.I. and I.S. and she sent those invoices to three  
17 different cost centers. She sent them to the NRA, the NRA  
18 ILA and Ackerman McQueen.

19           And at LaPierre's request she removed some  
20 information from them. What information did she remove from  
21 her invoices? All of the travel details? No. She removed  
22 information about trips to Nebraska where LaPierre's niece  
23 lives and trips to the Bahamas. Why? Woody Phillips told  
24 you. He said, yeah, he was worried about water cooler  
25 gossip. He was worried about people at the NRA seeing how

## Plaintiff Summation/Ms. Connell

1 money's spending.

2 So, let's go back, I'm sorry if we can, to Slide  
3 37. I'm sorry, about that Jen, I was jumping around a  
4 little bit.

5 Mr. LaPierre spent millions of the NRA -- I'm  
6 sorry, I'd like to go back to the jet trips, too.

7 Mr. LaPierre spent millions of NRA funds on private  
8 jet travel. We showed he spent over a million dollars on  
9 flights he wasn't even on. We showed you he spent over  
10 \$600,000 in private jet travel to the Bahamas alone. We  
11 showed that this went on year after year after year.

12 And there are a couple of other things that  
13 undercut the security detail, and I'm not poo-pooing that  
14 Mr. LaPierre might be subject to threats, not at all; but  
15 there's a way to handle it secretly flying you and your  
16 friend around to Bahamas while using charitable funds was  
17 not the way to do it. It was a violation of the charity's  
18 own rules.

19 But, if it was for security, why didn't  
20 Mr. LaPierre tell his security detail when he was flying to  
21 the Bahamas? He didn't. He testified that he didn't.

22 If we can have Slide 49, if that's okay. Actually,  
23 48, I'm sorry.

24 He said he didn't get board approval, and he didn't  
25 tell his director of security about his trips on the yachts

**Plaintiff Summation/Ms. Connell**

1 in the Bahamas.

2 And we heard from Chris Cox, the head of the NRA  
3 ILA, who is subject to security threats and he flew  
4 commercial. There were some jokes or something about him  
5 suggesting prop planes. He did say that he considered when  
6 those private flights were needed, what would be an  
7 economical way to do it; but Chris Cox sat here and  
8 testified that he continued to fly commercial.

9 And I want to say something about Chris Cox's  
10 testimony. Counsel made some representations about  
11 Mr. Cox's testimony about him asking to get fired, about  
12 some hunting trips or something with the President's son.

13 Please go back and look at Chris Cox's testimony  
14 and judge for yourself if what counsel represented he said  
15 is what he really said.

16 If for security he had to fly private, why was  
17 Mr. LaPierre okay flying commercial when he went on his paid  
18 luxury vacations with the McKenzies, which he did over and  
19 over and over again?

20 Again, legitimate security needs could have been  
21 properly handled, not through the secrecy and obfuscation he  
22 promoted.

23 Another example of how LaPierre created this  
24 culture of corruption within the NRA is with regard to the  
25 MMP entities. We are so familiar with them, I'm sure; but I

**Plaintiff Summation/Ms. Connell**

1 think it bears repeating that it involved deception, lying  
2 to the NRA in violation of his duties and will also show  
3 that this arrangement demonstrates a breach of both  
4 Mr. Phillips' and Mr. Frazer's duties.

5 LaPierre year and year after year filled out his  
6 financial disclosure form. The disclosure forms that  
7 Mr. Frazer is so proud of, Mr. Frazer beefed up these forms,  
8 right? That's a good thing. Mr. Frazer distributed these  
9 forms. That's a good thing. Mr. Frazer collected these  
10 forms and recorded so he got a hundred percent return in  
11 some years. That's a great thing.

12 But, year after year after year, Mr. LaPierre lied.  
13 This is a simple question. Have you gotten a gift  
14 gratuitously, personal favor of entertainment with a retail  
15 price of fair market value, it makes sense, of \$250  
16 essentially from any member? Year after year he answered  
17 that question no.

18 It wasn't until 2021 on the day he was testifying  
19 in the bankruptcy proceeding that he had commenced for the  
20 NRA, that he partially disclosed his conflict of interest  
21 with McKenzies; and his disclosure opened up the fact that  
22 he had been accepting gifts from them for years.

23 So, what happened? As part of the course  
24 correction, of course you'd expect that they'd investigate  
25 it, the NRA's sprang into action. It immediately looked at



**Plaintiff Summation/Ms. Connell**

1 why wasn't this disclosed sooner? What effect had this on  
2 business relationships? What are we going to do about  
3 setting the Tone from the Top, about the blatant violation  
4 of our conflict-of-interest policy?

5 What does Mr. Frazer do? He doesn't recall. You  
6 know, we asked him if he even talked to Mr. LaPierre about  
7 it. No, he didn't. He just -- that's the NRA's top lawyer.  
8 What does he do about it? Nothing.

9 Back to Mr. LaPierre were there trips worth more  
10 than \$250? Yes, and it wasn't just a trip where he flew  
11 down for business purposes with Mr. McKenzie to talk  
12 business. It was Susan LaPierre's girls week that you heard  
13 testimony about. It was vacations. It was Colleen  
14 Sterner's wedding, Mr. LaPierre's niece.

15 And what was Mr. McKenzie getting in return? We  
16 submit to you that you can -- I'm sorry, you passed the  
17 pictures of the yacht, which you can look at. I think we  
18 can agree can be pretty luxurious, a very nice gift to get.

19 What was Mr. McKenzie getting in return? Well,  
20 let's take a look. For example, in May 2015, May 27th to  
21 the 30th, LaPierre visited the McKenzies. Earlier that  
22 month, Susan LaPierre had spent some time on their yacht.

23 The next business day after LaPierre's visit to  
24 California with the McKenzies, there's an increase to the --  
25 in the fees paid to MMP and Concord by a hundred thousand

**Plaintiff Summation/Ms. Connell**

1 dollars a month. This was not an isolated instance. It  
2 continued. The next instance was in January 2016. LaPierre  
3 spent time with the McKenzies in December and in  
4 January 2016 there was another \$100,000 increase. It  
5 happened in August and September of 2016. There was a  
6 visit, and it is followed by 190,000 dollar a month  
7 increase. This timing is undeniable.

8 If we look in a timeline in 2013, the LaPierre's  
9 niece's wedding is on the Yacht Illusions. And the meetings  
10 continue. They're on the lower half of this timeline, and  
11 the increases in the monthly rates paid to the MMP entities  
12 are in the top, and they both go in one direction. They  
13 increase.

14 Of course, LaPierre could not engage in these  
15 arrangements with MMP on his own. You saw evidence,  
16 Mr. Hines walked you through it. We admitted the documents  
17 that the MMP contracts were approved after they had already  
18 been executed, after they had already been signed that the  
19 approvals were based on false terms.

20 The approvals indicated there was a ten percent cap  
21 in the monthly payments. There was not. The approvals  
22 contained multiple fraud risk indicators; and, yet, MMP was  
23 paid millions of dollars, the entity MMP, millions of  
24 dollars above the contract rate year after year. How? With  
25 the help of Mr. Phillips. He carried out Mr. LaPierre's

## Plaintiff Summation/Ms. Connell

1 intention. He paid these invoices without contractual  
2 support.

3 You heard from Mr. Hines again how these -- the  
4 fraud risk indicators that were present here, the overly  
5 complex transactions. I want to take you back and remind  
6 you the MMP entities were three companies operating in the  
7 same office space, with the same management, same employees,  
8 same owners, inside the NRA headquarters; but they're paid  
9 through three different companies. That's a fraud risk  
10 indicator you heard Mr. Hines explain it.

11 So, I won't walk you through the fraud risk  
12 indicators and the violations of internal controls that were  
13 rampant in this arrangement.

14 I would like to say one thing. You heard Ms.  
15 Rogers comment MMP and say that the NRA was paying for good  
16 services. That the NRA got services from NRA. Well, it  
17 should from MMP. It should. It's a vendor. The NRA,  
18 hopefully, is getting something, right?

19 But let's take a look at whether the NRA was  
20 getting what it should. It wasn't until 2022 -- I'm not  
21 great at math, but I think that's about five years after the  
22 course correction began that the NRA actually renegotiated  
23 its deal with MMP, that it actually did something that was  
24 an attempt at least at arm's length negotiation.

25 And what happened? It ended up with a 46 percent

**Plaintiff Summation/Ms. Connell**

1 decrease in the amount it was paying MMP for the same  
2 services, with more favorable terms. Ask to see the  
3 agreement that approved it. By the way, one of which was  
4 signed by Mr. LaPierre; but ask to see the agreement that  
5 approved it. They support that. Same services, more  
6 favorable terms, 46 percent decrease.

7 It is fair to say that had LaPierre hadn't been  
8 friendly with the McKenzies, if he had not been receiving  
9 these lucrative gifts, the NRA could have gotten the benefit  
10 of that bargain much, much sooner.

11 Let's go on to just a few other examples of the  
12 corruption, the out-of-pocket expenses or OOPs. This is an  
13 arrangement made with Ackerman McQueen. The NRA calls Bill  
14 Winkler, the representative from Ackerman, who testified  
15 briefly Team AAG. Again, we used him largely to admit  
16 documents; but it was LaPierre, Phillips and the NRA who set  
17 this process up and kept it going year after year. Was it  
18 for security? More gas lighting. That's flat gas lighting.

19 We saw through Eric Hines, an accountant and the  
20 only accountant in this case who actually opened the NRA's  
21 books, actually looked through these invoices, actually did  
22 any kind of forensic accounting work. One mistake of his is  
23 was pointed out; but he actually looked at this. He  
24 actually looked at what was going on and he said millions of  
25 dollars of these OOP expenses had no support for them

**Plaintiff Summation/Ms. Connell**

1       whatsoever, no paperwork, of the two something million  
2       dollars of OOP expenses for which he could find some  
3       support. They showed lots of expenditures that had nothing  
4       to do with OOP -- with security, excuse me.

5               Six weeks ago Mr. Tenenbaum, Plaintiff's expert on  
6       governance told you he had never seen an arrangement where  
7       nonprofit has employees expenses passed back through a  
8       vendor.

9               What's the purpose of that? The purpose of that is  
10      to hide the expenditures. The purpose is that so that the  
11      expensive hotels, the limousines, the \$900 dinners, the  
12      clothing stylists, the makeup don't have to go through the  
13      normal NRA expense approval process.

14              You heard about audits that are done by  
15      Mr. Phillips or Mr. Tedrick or Mr. Hart. You could ask to  
16      see some of those audits and judge for yourselves how  
17      thorough they are. They did notice some problems from year  
18      to year, but you also heard Mr. Phillips testify the last  
19      audit he recalled performing or being performed by Mr.  
20      Tedrick was 2014.

21              Again, the NRA paid \$4.3 million in OOP expenses  
22      between 2015 and 2019. These were evidenced only by  
23      invoices that say out-of-pocket expenses. No support, month  
24      after month the NRA pays them.

25              Again, they paid for limousine and black car

**Plaintiff Summation/Ms. Connell**

1 services. They paid for other luxury services and this was  
2 done through -- with Mr. Phillips' assistance and consent.

3 This is an expense -- this is an example, this  
4 slide, of one expense that was paid for by Ackerman McQueen.

5 It shows \$98,000 for two weeks -- for a two-week  
6 period for two chauffeured SUVs, run through OOP. Maybe  
7 there was a justification for that, but why run it through?  
8 Okay.

9 I would urge you to ask for and look at PX 5116 and  
10 PX 5129 and all of the intervening exhibits that were  
11 admitted. PX 5137, PX 5140 and 5143, take a look at  
12 out-of-pocket expenses.

13 Again, you can call for the Hines testimony, as  
14 well, that runs through the types of things these were spent  
15 on.

16 I'd like to move on to the idea of entrenched  
17 leadership. You've seen from examples we just walked  
18 through -- by the way, I want you to also look at some of  
19 those exhibits because you'll see Mr. Frazer's signature  
20 approving some of those payments. He was aware of them. He  
21 didn't ask to see the contract that supported them. He  
22 didn't ask to try to enforce NRA policies.

23 So, moving on to entrenched leadership. You've  
24 seen how important leaders like Mr. Frazer, Mr. Phillips,  
25 Mr. Cotton, Mr. King, Ms. Meadows were to maintaining

## Plaintiff Summation/Ms. Connell

1 LaPierre's control.

2 Again, the first thing to know is that the people  
3 currently running the NRA, even with Mr. LaPierre gone.  
4 And, by the way, remember, Mr. King said there's nothing  
5 stopping him from returning tomorrow if he wanted. There's  
6 nothing structurally within the NRA that would stop him from  
7 returning working there.

8 The fact is that the people leading the NRA  
9 during -- this is a quote from the NRA board member, Willes  
10 Lee, that you heard from.

11 "The people leading the NRA during admitted abuse  
12 endorsed and reelected people watching the coup during the  
13 alleged corruption and admitted abuse." Got it, okay.

14 He's pointing out an obvious problem. When you  
15 don't look back at the history, when you don't look back at  
16 how did all this occur, whose fault is it? Whose  
17 responsibility is it? Do they understand that? Then you  
18 are leaving the same people in charge who got you in trouble  
19 in the first place, and there's a problem with that.

20 You heard Mr. Marshall testify about what he and  
21 called and others called cabal loyalist. By  
22 Ms. Hammer, Ms. Froman, Mr. Robinson, Mr. Keene, who's the  
23 real decision makers on the 76-member board. You heard  
24 Mr. Cox talk about the board leadership and how all 76  
25 members are not really active.

**Plaintiff Summation/Ms. Connell**

1           And what about the executive level? At the  
2 beginning we promised to show you that Mr. LaPierre  
3 surrounded himself with unqualified, but loyal executives.

4           Well, you haven't heard anyone question that  
5 Ms. Hallow, who has a prior conviction that should have  
6 disqualified her from employment who was loyal to LaPierre  
7 above all, that she was a qualified employee.

8           You've seen -- you'll see that the 2003 Frankel  
9 report, which documented her loss and waste in taking of NRA  
10 funds. You've seen evidence that she acted to advance  
11 Mr. LaPierre's interest. You've seen evidence that she took  
12 NRA monies for her own use.

13           She couldn't have gotten anyplace else. She  
14 couldn't have gotten a position like that anywhere else or a  
15 salary like she received anywhere else.

16           Joshua Powell, no one is contesting that he was not  
17 the right man for the job, to say the least. He was  
18 appointed by LaPierre, and he was put in charge of  
19 compliance for awhile or the compliance seminars, and he was  
20 fired for taking NRA money for personal expenses.

21           Mr. Phillips, the NRA's own counsel pointed a  
22 finger at Mr. Phillips today. Mr. Erstling pointed the  
23 finger at Mr. Phillips and Mr. LaPierre as violating  
24 internal controls and not following NRA rules.

25           And then we have Mr. Frazer. Remember when I said



## Plaintiff Summation/Ms. Connell

1 people are not all one thing? There's no doubt by all  
2 accounts that we've heard Mr. Frazer is a nice man. He's a  
3 kind man. He worked -- he went to law school at night. He  
4 worked hard. That's admirable.

5 Those don't mean that he was qualified to be the  
6 GC and secretary of a large complex organization. And I  
7 would submit to you that time after time the evidence has  
8 shown he had the opportunity to step up, to speak up, to  
9 stop illegal conduct, to stop conduct in violation of NRA's  
10 policies, and he largely failed to do so. Not in every  
11 case. There are instances where he did. Like, when he told  
12 them to stop paying the Grassroots contract. He did  
13 sometimes; but time after time he didn't, particularly in  
14 regard to whistleblowers where he was instrumental in  
15 suppressing them.

16 These executives helped Mr. LaPierre manage the  
17 board and were called and referred to by some, like there  
18 are --

19 THE COURT: Do you want -- we're about at the  
20 halfway point? Do you want to go a little bit further and  
21 take a break?

22 MS. CONNELL: Why don't we take a break? I have to  
23 do some cutting and jump ahead.

24 THE COURT: That's what I thought. All right,  
25 let's take a short break.

## Plaintiff Summation/Ms. Connell

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COURT OFFICER: All rise, jury exiting.

(Whereupon, at this time the jury then left the courtroom.)

THE COURT: I trust you all got my note about multitasking to get -- just if you have anything on the verdict forms or anything, we just need to tidy those up so we can be ready to go first thing.

We'll see you soon.

Let's shoot for ten minutes.

(Whereupon, at this time a short recess was then taken.)

(Continued on next page)

**Plaintiff Summation/Ms. Connell**

1           THE COURT: I confirmed we do have the use of this  
2 room next week if we need it for this case, for jury things  
3 coming back. I'm going -- I have a full schedule  
4 downstairs, but I'll just come up and down as necessary.  
5 But I don't know how many people are going to be up here  
6 waiting if they're not finished deliberating tomorrow, but  
7 who knows. At least there will be room here.

8           COURT OFFICER: Jury entering.

9           (Whereupon, at this time the jury then entered the  
10 courtroom.)

11          THE COURT: Okay, welcome back. Have a seat,  
12 please.

13          All right, Ms. Connell. You have about an hour.

14          MS. CONNELL: Thank you.

15          SUMMATION BY

16          MS. CONNELL: (Continuing)

17                 MS. CONNELL: I'm going to try and move a little  
18 faster. At times rather than walking you through specific  
19 facts, I may refer to pages of testimony or particular  
20 documents that State feels you should look at.

21                 In regard to Wayne's domination of the board with  
22 the help of board members, I would suggest that you look at  
23 PX 609, 813 and 1607.

24                 Now, I would like to move on to the course  
25 correction.

**Plaintiff Summation/Ms. Connell**

1           In the verdict sheet and in the jury instructions,  
2           the judge is going to talk to you about what period of time  
3           is relevant for your review, what period of time accounts  
4           for each of the claims; and that includes the failure to  
5           properly administer. That period of time is a six-year  
6           period that ended in 2022; but I think that a lot of the  
7           discussion and the evidence in this case has been given to  
8           you in a disconnected way and free from a timeline, and I  
9           thought it might be helpful to you to have a timeline of the  
10          events that we think are important to both show the  
11          defendants had notice and a lack of good faith with regard  
12          to their illegal conduct and in regard to what happened  
13          before, during and after the course correction.

14                 So, first, you know, Woody Phillips and Wayne  
15          LaPierre started in their positions at the top of the NRA  
16          triangle in 1991 and 1992. In 1996, not long after, there  
17          is something called the Board Variance Report. I urge you  
18          to request this. It is PX 5018.

19                 This was a report prepared by members of the NRA  
20          board's Finance Committee and it highlighted concerns about  
21          the very types of conduct we complain about today. It takes  
22          away any allegation that Wayne LaPierre or Wilson Phillips  
23          acted in good faith, or that the NRA didn't know about the  
24          illegal conduct that was occurring.

25                 It references verbal approvals. It references some

**Plaintiff Summation/Ms. Connell**

1 of these same vendors that the NRA is now telling you are  
2 fraudulent, that they didn't get services for. These are  
3 arrangements that were set up by Wayne, and Wayne LaPierre  
4 and Wilson Phillips and that were the subject of a board  
5 report noting concerns in 1996.

6 Again, they talk about verbal approvals. They talk  
7 about a lack of receiving any demonstrable product in  
8 response to contracts. They talk about laxed business  
9 practices and almost a contempt for board policies.

10 If we can go on to the next slide, please, Jesse.  
11 That would be great.

12 They also talk about the dollar value involved.  
13 The response to this by Wayne LaPierre was to claim that  
14 members who prepared the Board Variance Report were staging  
15 a coup. Sound familiar? Sound like it comes from a  
16 playbook of someone trying to maintain control?

17 And, by the way, again, just talking about people  
18 for a second. Mr. LaPierre talked to you about being a  
19 people person, liking people and thinking of the NRA as a  
20 family. That may all be true, but what the evidence in this  
21 case has shown you is that acting behind the scenes, using  
22 others, verbally conveying instructions to others and  
23 manipulating and using secrecy and suppression, he can  
24 control people.

25 So, in 1997, he takes the people who are

1 challenging his control, the people he feels are behind the  
2 Board Variance Report; and he accuses them of a coup attempt  
3 and he ousts them about that time Charlton Heston or soon  
4 thereafter comes in as president.

5 Just to move on, there was in 1999 the NRA  
6 served -- excuse me -- signed a services agreement with  
7 Ackerman McQueen. That was signed by LaPierre. It was not  
8 properly approved. That's when that contract began. Those  
9 are the people that the NRA are saying defrauded the NRA.  
10 It was under Wayne LaPierre's control. If you remember the  
11 services agreement, any changes to payments, any changes to  
12 services had to be approved by him or his designee. You  
13 heard and saw that Wilson Phillips worked closely with them  
14 for years.

15 That began in '99. We know the out-of-pocket  
16 expense report, expense process was in place as of the early  
17 2000s because we heard testimony of an audit as early as  
18 2004.

19 (Continued on next page)  
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**Plaintiff's Summation/Ms. Connell**

1 MS. CONNELL: Let's long at something else that  
2 should have given Mr. Phillips, Mr. LaPierre and the NRA  
3 pause.

4 In 2003, the Frenkel report that's PX 2467. That's  
5 an investigation into Millie Hallow's conduct and her use of  
6 NRA money to pay for purely personal expense, her  
7 expenditures of over \$500,000 in NRA credit cards, some of  
8 which is business related, much of which was not. That was  
9 a very friendly report.

10 You heard the -- Mr. Coy cross-examined on that,  
11 and it was said, well, she didn't violate any criminal law.  
12 She didn't make -- she didn't violate any law. Look at the  
13 report. They only look at wire fraud under the federal  
14 statute. Look at the report and see what it says about  
15 leadership. Read the report when it says there aren't  
16 sufficient internal controls within the NRA. Look at that  
17 report and look at Mr. LaPierre supporting her despite  
18 taking NRA money. Why? Because she was his go-to person.  
19 She arranged the elections for him. She did the crib sheet,  
20 the cheat sheet. He kept her in place despite conduct like  
21 this. They were on notice from 2003 of a lack of internal  
22 control and more on Millie Hallow's misconduct.

23 Continuing onwards. So I would just suggest to you  
24 that any -- any claim that the NRA that Mr. Phillips and Mr.  
25 LaPierre were unaware of insufficient internal controls, of

**Plaintiff's Summation/Ms. Connell**

1 violations of internal controls, that doesn't stand -- that  
2 doesn't hold water because as of 1997 and as of 2003,  
3 they're on notice of these problems.

4 Moving on. In 2004, the NRA begins paying Ms.  
5 Hammer. She is a lobbyist. Chris Cox talked to you and  
6 said, yeah, she's a legend in her field. He didn't think  
7 she was worth the money at the time that he took over ILA.  
8 He didn't think that she was worth the amount the NRA was  
9 paying her. He didn't think that she was really active in  
10 lobbying anymore, but she was paid by the NRA, by NRA/ILA,  
11 and then through her organization Unified Sportsmen of  
12 Florida, through three different routes. And we suggest  
13 that if you look at the Audit Committee reports and the  
14 evidence submitted through Eric Hines, you will see that the  
15 Audit Committee never properly approved or ratified all of  
16 those payment streams.

17 And remember, during the course correction, Mr.  
18 LaPierre signed a ten-year contract where Ms. Hammer who was  
19 I believe 79 at the time, but I would have to double check  
20 the record on that.

21 Just to give you some more context, in 2011,  
22 Phillips and LaPierre execute contracts with MMP and the MMP  
23 entities. Again, without complying with internal controls  
24 and in the presence of the fraud risk indicators that Eric  
25 Hines identified. You haven't -- that Eric Hines



**Plaintiff's Summation/Ms. Connell**

1 identified, and they continued to pay under that  
2 agreement -- those agreements for years and to overpay above  
3 the contract amounts.

4 In 2013 at the latest, LaPierre and his family  
5 begins to accept valuable gifts from MMP owners.

6 In 2013, 2015 and 2018, LaPierre executes  
7 employment contracts with the NRA without Board approval.  
8 This is really significant, and it shouldn't be downplayed.  
9 Mr. LaPierre I think said he didn't even want them. But if  
10 you take a look at the terms of these employment agreements,  
11 what you will see is that they were extremely beneficial.  
12 They bound the NRA to pay millions of dollars to him for up  
13 to ten years after he left the NRA for any reason.

14 Allegedly, the last one, the 2018 is no longer in  
15 place, but the fact that he would feel free to execute such  
16 an agreement calling for the NRA to pay him that amount of  
17 money demonstrates the contempt that the Board Variance  
18 Report found all the way back in 1997.

19 Then in the Fall of 2017, the Schneiderman call  
20 comes in, and the NRA believes they are going to face  
21 regulatory scrutiny and then begin the course correction.

22 Just after that, LaPierre executes and arranges the  
23 North contract with Ackerman. In the same month LaPierre  
24 signs his 2018 post-employment contract. On the same day at  
25 the same place, they execute Wilson Phillips'

**Plaintiff's Summation/Ms. Connell**

1 post-employment contract. Again, without board approval.  
2 Again, without approval by the Audit Committee. Again, a  
3 lucrative flat-rate fee -- flat-rate agreement under which  
4 there are no deliverables and no required work specified.  
5 Those were executed after the course correction began. And  
6 they demonstrated again that the course correction didn't  
7 reach to the top. And we heard about how important tone at  
8 the top is.

9 Later that year in 2018, we heard that the Wall  
10 Street Journal published a story that had a great effect on  
11 some Board members. You can see an email related to that at  
12 PX 705, and that began some Board members asking questions.

13 You've heard the Board members whom raised  
14 questions dismissed as raising stale questions or concerns  
15 that were already being addressed or already being looked  
16 at.

17 Well, when a Board member whose supposed to run an  
18 organization says what is this about, why are we seeing  
19 these press reports about corruption within our  
20 organization, they deserve answers. They don't deserve to  
21 be blown off, and that's what they were.

22 In 2018, in early 2019, we have heard that Mr.  
23 North or Lieutenant Colonel North, Mr. Childress and Ms.  
24 Meadows at times begin raising concerns, and we know what  
25 happens after that. They are subject to whistleblower

**Plaintiff's Summation/Ms. Connell**

1 retaliation or at least Lieutenant Colonel North and Mr.  
2 Childress is.

3 That's just to give you some bit of timeline for  
4 what we are talking about. The misconduct that's at issue  
5 in this case dates back at least to the 1990's in some case.  
6 There was notice. There were contracts going on and  
7 continued through the 2000's. It didn't start in 2018 or  
8 2019 or 2020, and you can not ignore that history. It  
9 informs the NRA's response.

10 So -- and let's just talk for a second about the  
11 Defendants' experts that they put on, their auditor and  
12 their experts.

13 If we can going to slide 130, Jesse, please and  
14 Jenny.

15 You have heard from an auditor that the NRA on the  
16 New York Law has to have an independent financial statement  
17 auditor. You heard him testify and Plaintiff's expert  
18 testify about the difference between a financial statement  
19 audit and an internal controls audit.

20 A financial statement audit is narrow in scope. It  
21 looks at the NRA's financial statements and says do those  
22 seem to be true as far as we can tell. Yes or no. Okay.  
23 That's what those are. Those are not an internal control  
24 audits. Mr. Plotts did not perform an internal control  
25 audit. You saw no evidence of the same.

**Plaintiff's Summation/Ms. Connell**

1           Furthermore, as he conceded and as Mr. Tenenbaum  
2 explained, a quote unquote "clean financial audit" does not  
3 mean an organization is healthy or compliant with the law.

4           Next, the NRA brought in a series of experts  
5 including -- well, actually just to continue on with  
6 Aronson. If you take a look at the Aronson documents  
7 including DX 1810, you know, Aronson explicitly states that  
8 it is not providing an assurance on internal controls or  
9 identifying deficiencies in internal controls, and that  
10 they're limiting their opinion and don't express any opinion  
11 on the effectiveness of internal controls.

12           And the NRA experts acknowledge that having the  
13 best written policies, the best -- you can have the best  
14 policies in the world, but if they are overridden, ignored  
15 or violated by executives or leadership within the  
16 organization, they don't count for anything. And that's  
17 what happened here with the exception the NRA did not have a  
18 good whistleblower policy which we'll talk about in a  
19 second.

20           These experts, none of the -- the NRA's experts  
21 acknowledged -- I'm sorry. Strike that. None of the NRA's  
22 experts opine on whether or not any allegation in the  
23 Attorney General's complaint was true or not. That's where  
24 the lack of talking about time is really significant.

25           Remember when you ask them or when we pressed them

**Plaintiff's Summation/Ms. Connell**

1        what time period did you look at, it was as of December 31,  
2        2020 moving forward. Did you look at the allegations? Did  
3        you test whether they were true? No, I looked at whether I  
4        saw evidence of them being ongoing in 2020 performing what I  
5        would suggest to you are narrow tests.

6                You can ask for the relevant documents.

7                They didn't perform internal control audits. They  
8        didn't perform forensic audits. They largely were not  
9        experts in non-profits.

10              For example, Mr. Mehta didn't look at any  
11        information before 2019, reviewed no transactions himself,  
12        and offered no opinion about any allegation in the complaint  
13        or the accuracy of any allegation in the complaint. This is  
14        largely true for the Defendants' experts. You can ask to  
15        see their testimony and we can provide you with the  
16        citations if you would like to see that.

17              Moving on, I would like to talk about another  
18        really crucial aspect of the course correction, and that's a  
19        really human aspect.

20              Craig Spray. Both sides point to Craig Spray, and  
21        I think agree that he was an important change agent within  
22        the NRA. He was hired not by being hand-picked by Wayne  
23        LaPierre, but he was hired after a formal executive search.  
24        He was qualified for his position, and he was described by  
25        Mike Erstling as a catalyst for reform efforts within the

**Plaintiff's Summation/Ms. Connell**

1 NRA. That's at slide 138, Jesse.

2 You heard evidence that Mr. Spray sometimes stood  
3 up to the "Wayne says" environment within the -- within the  
4 NRA. At slide 139. He stopped Wayne's payments or the  
5 NRA's payments for Wayne's membership in a golf club. He  
6 stopped and questioned other payments for golf or social  
7 clubs.

8 You heard Mr. Phillips admit the NRA had no policy  
9 permitting such payments. Spray came in and actually said,  
10 Hey, guys, what are we doing here. This has to stop.  
11 That's what you need from an executive, someone who is going  
12 to follow the rules, someone who is going to enforce the  
13 law, someone who is going to guard and properly administered  
14 those charitable assets. That's what the NRA lacked.  
15 That's what it lacked.

16 Mr. Spray came in, and he started to change things.  
17 And did they like him? They did. I think the timeline is  
18 important here.

19 In April of 2020, the NRA found Spray to be a  
20 valued leader. It signed an employment agreement with him  
21 even after he had already been employed and wanting to keep  
22 him on. It was an 18-month employment agreement. Then on  
23 October 29, 2020, Mr. LaPierre said you're such a valued  
24 leader. We prize you so much, we want to give you a  
25 \$250,000 retention bonus. So in October 2020, Mr. Spray's

**Plaintiff's Summation/Ms. Connell**

1 performance is great. Remember that.

2 Okay. Then Spray did the unthinkable. He asked  
3 NRA leaders and those involved in the preparation of the  
4 990, the IRS Form 990 to sign a certification saying that to  
5 the best of their knowledge, the contents were true because  
6 he had been shocked about information he was learning about  
7 excess benefits and personal benefits the NRA had been  
8 paying for for executives. He couldn't get information  
9 about it. He was surprised about it, and he -- he wanted  
10 some assurances that the filings were accurate.

11 At the same time, Spray was continuing push back on  
12 the "Wayne says" culture. You know, we saw and went over  
13 this email where he chided staff saying there are no more  
14 "Wayne says" approvals at the NRA. It has empowered others  
15 to misbehave. It's not happening. You know, he was  
16 frustrated, and he said, I won't go down that path.

17 Finally, in November 2020 after certain NRA  
18 officials including Mr. Cotton, including LaPierre refused  
19 to sign the certification, including Mr. Cotton refused to  
20 sign the certification, Craig Spray said I'm not signing the  
21 990. I won't sign it. He refused. The writing was on the  
22 wall for Craig Spray at that point.

23 The man who in October was deserving of a \$250,000  
24 retention bonus was now not being invited to meetings. He  
25 was being left out of the loop, and he stopped getting

**Plaintiff's Summation/Ms. Connell**

1 information thereafter.

2 In fact, most tellingly -- I'm sorry. This is an  
3 example where Mr. LaPierre electronically signed the 990.

4 Mr. Spray testified he was left out of the loop.  
5 There's no question about that, and he was left out of maybe  
6 one of the biggest decisions that an organization can make.  
7 That's the decision to file for bankruptcy. He is the CFO  
8 and treasurer of the NRA, and nobody tells him they are  
9 going to take that organization and place it in bankruptcy  
10 court in Texas. It's a shocking omission. He learned about  
11 the decision to file bankruptcy hours or maybe minutes  
12 before it's filed. And shortly after that, Mr. Spray has  
13 the backbone or the guts to tell Mr. LaPierre that not only  
14 was it a bad idea to file for bankruptcy, the way he went  
15 about doing it was not right. The writing was on the wall.  
16 Two days later, he was fired or -- actually, on January 28,  
17 2021, he was fired leaving the NRA without a CFO, without a  
18 treasurer in bankruptcy. Why? Because Mr. LaPierre no  
19 longer perceived him as loyal, I would suggest to you.

20 Spray was brought in as a competent qualified CFO  
21 and treasurer. He pushed reforms within the NRA. He gave  
22 the Top Concerns whistleblower some cover. Remember they  
23 said under Spray's guidance, under his leadership, they felt  
24 free to come forward. He was making the NRA do its job,  
25 making it preserve and administer charitable assets. But as



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1 soon as his reforms came too close to top leadership, his  
2 days were numbered. He was fired. And if you have any  
3 doubt that that was wrong, think back to his employment  
4 contract in 2020 and his retention bonus. He is a story of  
5 the real course correction.

6 Has the NRA made strides ahead? Sure. But Craig  
7 Spray's hiring and firing demonstrates that sometimes in  
8 many ways this course correction is very shallow.

9 Moving on, let's talk about Ms. Rowling. She  
10 testified in Plaintiff's case and also in the Defense case.  
11 Ms. Rowling I think seemed to be a caring, dedicated  
12 employee. She didn't want corruption to go on within the  
13 NRA, but I think it's common sense, and we understand.  
14 People want to keep their jobs. They want job security.  
15 They want their salaries. They want their titles. Even  
16 good people can also feel loyalty to their family or to  
17 their job, and they can give into pressure when they see  
18 what happens to people who stand up.

19 And is there any question about what happens to  
20 people when they stand up to power, when they speak truth to  
21 power? If you had a question about it in the NRA, you saw  
22 what happened to Oliver North and Richard Childress. You  
23 saw what just happened to Craig Spray her former boss.

24 In any case, you heard that Ms. Rowling was  
25 promoted within the NRA, and you heard that she is promoted

**Plaintiff's Summation/Ms. Connell**

1 even though she is a whistleblower. She is one of the  
2 authors of the Top Concerns memo. That memo was an  
3 important memo. It demonstrated again notice of lots of the  
4 problems within the NRA. And in particular, they raised  
5 concerns. For example, management has subordinated its  
6 judgment to vendors. Decisions are made in the best  
7 interest of vendors. The MMP bills violate contract  
8 stipulations. This was in the Summer of 2018.

9 How long did the MMP bills continue to violate --  
10 violate the NRA's rules? Until 2022 when it was  
11 renegotiated. That's how some of these concerns were  
12 treated.

13 What about the time that -- when this memo was  
14 given to the NRA? How much trust did she have in the NRA at  
15 that time?

16 You need look no further than the memo that she  
17 prepared and said she wished she had given to the Audit  
18 Committee. Read this in its entirety. PX 2605. She felt  
19 the meeting was manipulated in a way to try and explain away  
20 the issues.

21 And if we advance to slide 157, you when see that  
22 she -- when she saw the rubber stamping of related-party  
23 transactions and conflict-of-interest transactions -- I want  
24 to remind you in 2018 and 2019, the NRA went through  
25 something like 33 conflict-of-interest and related-party

**Plaintiff's Summation/Ms. Connell**

1 transactions and approved them all. And if you doubt it was  
2 a rubber stamping, just think about when they approved  
3 Oliver North's contract and then later discovered they  
4 didn't have enough information about it.

5 She said that they make her sick. Was she wrong to  
6 believe that the Board's intention to the Top Concerns might  
7 have been disingenuous? Maybe not.

8 If we can jump to slide 71 please, Jesse. Marion  
9 Hammer of Hammertime name said that these so-called  
10 accountant whistleblowers are feigning anger. What I see is  
11 an orchestrated leaking of distorted information about  
12 impure motives, not good deeds.

13 John Frazer listened to this. He did nothing.  
14 Nothing to go do. He talked to the whistleblowers. They  
15 thought he was nice. They thought he listened to them, and  
16 I'm sure he did. But we would suggest to you if you look at  
17 the concerns and the whistleblower memo and how long it took  
18 the NRA to act or what types of action they took, it's not  
19 necessarily a winning story for the NRA.

20 Ms. Rowling stuck around for years. She was there  
21 for years under Wilson Phillips. Why did she stick around?  
22 She said that she was concerned that she would not be able  
23 to find another job. She said that she thought about  
24 leaving for years, that she didn't know whether she would be  
25 able to get another job, and then she was promoted as

**Plaintiff's Summation/Ms. Connell**

1        treasurer or a CFO and her salary was increased. Now she  
2        has some security. She has a better position, and I don't  
3        think her motives are impure at all. I think she thought  
4        I'll step in and I'll do the right thing and I'll try and  
5        make reforms and she has. But again, in the background is  
6        that knowledge -- it must be there. That if she does the  
7        wrong thing, she puts her toe over the line, she might be --  
8        she might be vulnerable as well.

9                I'd like to move quickly on to the bankruptcy. We  
10        talked about it a little bit earlier, but this is an example  
11        of the ultimate override of internal controls, and this also  
12        belies the story of a course correction.

13                Mr. LaPierre made the decision on his own. He said  
14        he consulted the SLC, but it was his decision alone to file  
15        for bankruptcy on behalf of the NRA, one of the most  
16        profound decisions an organization can make. And how did  
17        that end up for the NRA?

18                The court in Texas dismissed the NRA's -- dismissed  
19        the bankruptcy as not having been filed in good faith. It  
20        noted it was shocked. It said "shocking," and it noted  
21        concerns about the surreptitious manner which LaPierre had  
22        obtained and exercised authority to file for bankruptcy.  
23        The NRA filed for bankruptcy on January 15, 2021. That's  
24        years into the course correction. Years into it.

25                LaPierre was accused of taking, losing, wasting and

**Plaintiff's Summation/Ms. Connell**

1 diverting NRA funds, and he decides what should I do. Let's  
2 take this organization and go to Texas.

3 Now, he gave you some testimony. I would say it's  
4 self-serving that he thought, well, I'll still face claims  
5 here in New York. But let's be honest. He moved -- he  
6 moved the NRA or tried to move the NRA to Texas to avoid  
7 regulatory review, and you don't have to take my word for  
8 it. You can look in the bankruptcy court's decision at PX  
9 2281 because it found that Mr. LaPierre moved -- filed for  
10 bankruptcy to evade regulatory review and obtain a  
11 litigation advantage. And remember, when he was filing for  
12 bankruptcy, he left out -- he didn't include Craig Spray in  
13 that. He didn't include John Frazer, the GC. Didn't tell  
14 him. Mr. Frazer found out the day it was filed. If that  
15 doesn't show you what Mr. LaPierre thought about his  
16 authority and how important he was in the NRA, I don't know  
17 what when.

18 You can see -- Mr. Frazer admitted this. He said  
19 he learned shortly before, and we clarified "shortly" means  
20 the day it's filed. And he said, correct.

21 Moving on, if we can. Just quickly look at slides  
22 162 and onward. Mr. LaPierre -- just to step aside for a  
23 second, Mr. LaPierre also made the decision to sue Ackerman  
24 McQueen without consulting Mr. Frazer.

25 Again, managing legal risk is within the scope of

**Plaintiff's Summation/Ms. Connell**

1 Mr. Frazer's job. He didn't complain about it. He just  
2 went along with it.

3 You would have expected a GC to storm in the office  
4 and say what are you doing. You can't do this to our  
5 organization. He did nothing. And then he didn't bring it  
6 to the Board's attention that he was being evaded -- like  
7 his authority was being sidestepped.

8 If we can keep going on, Jesse, with slides 163,  
9 164.

10 When Mr. -- going back to the bankruptcy, the only  
11 person that Mr. LaPierre told was then head of the press  
12 office Andrew Arulanadam. You know, I would remind you of  
13 the testimony that -- and you can just page through these  
14 slides just because I want to keep moving, Jesse, that other  
15 Board members said the decision to file bankruptcy on  
16 January 15 was a week after the January 7 Board meeting. At  
17 that meeting, Mr. LaPierre presented a new employment  
18 contract that offered much more favorable terms to the NRA.  
19 Included in this was some bland language about Mr.  
20 Erstling -- by the way, also wasn't told about the  
21 bankruptcy -- some bland language, duties and powers of the  
22 EVP. It didn't say "bankruptcy." It didn't say "Chapter  
23 11." Mr. LaPierre took that language and said that gives me  
24 authority to file for bankruptcy.

25 Nobody during that Board meeting said we are

**Plaintiff's Summation/Ms. Connell**

1 thinking about filing for bankruptcy. Nobody said we are  
2 thinking about moving to Texas. No one said anything. It  
3 was done. He took control of that organization and evaded  
4 Board control completely. That is an absolute violation of  
5 the way things are supposed to work, and that is during the  
6 course correction, years after the course correction began.

7 After -- and you heard Sonya Rowling say that the  
8 bankruptcy cost the NRA 10 to \$12 million, I believe. She  
9 also said it cost them vendor good when and the ability to  
10 get credit. This damaged the NRA.

11 I would submit to you that this was a failure to  
12 properly administer the charitable assets of the NRA and a  
13 breach of LaPierre's fiduciary duty because he had a  
14 conflict. He was facing regulatory review here in New York  
15 for his actions within the NRA, and he made a huge decision  
16 on behalf of that organization cutting out the Board. That  
17 all occurred during the course correction. And nothing  
18 happened to LaPierre as a result.

19 You didn't -- there was no investigation. There  
20 was no punishment. There was no looking into, a review of  
21 his conduct in that way.

22 I'd like to keep moving on as quickly as possible  
23 and get to some of the actual claims that you're going to  
24 see on the verdict sheet rather than continuing on through  
25 the illegal conduct.

**Plaintiff's Summation/Ms. Connell**

1           The Court's going to instruct you on the law. It's  
2 going to give you a verdict sheet. The verdict sheet I  
3 don't think is finalized or was just finalized or I would  
4 present it to you, but the verdict sheet is going to ask you  
5 a series of questions and ultimately, you make the  
6 decisions. You determine whether to hold someone liable.  
7 You determine whether something is true or not. But I'd  
8 like to just talk to you about a couple of those claims and  
9 time permitting. The first one is the whistleblower  
10 protections under N-PCL. That's Not-For-Profit Corporation  
11 Law 715B.

12           Plaintiff asserts two causes of action under the  
13 N-PCL. I think the first slide is 244, Jesse. The first  
14 cause of action is the NRA failed to have a compliant  
15 whistleblower policy until January 2020. It had to have a  
16 compliant whistleblower policy under the law, and it did  
17 not.

18           This -- you heard John Frazer testify that this was  
19 its policy. Located within PX 415, I believe at Page 13,  
20 and it failed to include many provisions that are required  
21 by the law. Again, the judge when instruct you on the law.  
22 Not me. But it says only that those who take an action --  
23 whistleblower action in good faith when not result in  
24 retribution or reprisal. It does indicate they should also  
25 be free from intimidation or harassment.



1           It fails to state that it when maintain a procedure  
2 to maintain confidentiality of such reports, and it's not  
3 labeled as a whistleblower policy, so it would be difficult  
4 for a whistleblower to find.

5           It does not provide the person or people who are --  
6 that the person or people who are subject of the complaint  
7 when not take part in deliberations or voting on a  
8 whistleblower complaint, and it speaks only about a  
9 violation of the Statement of Corporate Ethics or a  
10 financial irregularity and not about any actual or potential  
11 violation of the law or the NRA's internal rules and  
12 policies.

13           And then the most important part besides not being  
14 labeled and not providing confidentiality is it should  
15 clearly say that anyone acting in good faith shall not  
16 suffer intimidation, harassment, discrimination or other  
17 retaliation, and you can see that people within the NRA  
18 might want that type of protection.

19           Getting it right, having a whistleblower policy is  
20 an important safeguard. The NRA didn't have it. When you  
21 get the verdict sheet, we ask that you answer yes, that the  
22 NRA is liable for failure to have a compliant whistleblower  
23 policy until January 22, 2020. That date's important  
24 because that date on January 22, 2020, we concede the NRA  
25 enacted and adopted a complaint whistleblower policy.

(Continued on the following page.)

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**Plaintiff Summation/Ms. Connell**

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Second, the claims we assert that the NRA engaged in whistleblower intimidation, harassment, discrimination and other retaliation.

Again, I'm trying to move through quickly. You've heard about a number of whistleblowers. We've talked about -- we've talked about many of them. Some of them acted together.

So, for example, Esther Schneider, Timothy Knight and Sean Maloney frequently worked together; and, in fact, received the same letter from Carolyn Meadows telling them that they had been stripped of their committee assignments. Instead of protecting and evaluating their whistleblower complaints, the NRA intimidated, harassed and retaliated against them.

If we can go to Slide 87, I want to take a step back because you heard a lot of the whistleblowers complain that they asked for certain information from John Frazer and they didn't get it.

Jeffrey Tenenbaum, Government's expert stated the refusal to give board members information is unheard of.

That's Slide 87, I think, Jesse.

And I'm sorry to the jury, we've got a little bit out of order in our slide presentation.

That that is completely wrong and that that is --

**Plaintiff Summation/Ms. Connell**

1 I'm sorry, it was slide 72, Jesse, and then we're going to  
2 go to slide 87. Let's just go back to 87.

3 You heard Jeffrey Tenenbaum talk about what is good  
4 faith. Because Mr. Frazer dismissed most of the  
5 whistleblower complaints other than the Top Concerns people  
6 that you heard about as not having been brought in good  
7 faith, and let's talk about what good faith means.

8 Mr. Tenenbaum described it, he said you have to dig  
9 in. You have to figure out what that person was talking  
10 about and if they're right, and he says something important.

11 Someone can have an ax to grind. Someone can be  
12 rude. Someone can gasp, be a woman who cursed and they can  
13 still be a whistleblower and you can't dismiss them as not  
14 being in good faith.

15 Oliver North was dismissed as not being in good  
16 faith because of an alleged conflict of interest. I submit  
17 that's not a legitimate reason to find that he wasn't a  
18 whistleblower in good faith. But then why also retaliate  
19 against Richard Childress who had no such conflict of  
20 interest?

21 Esther Schneider was deemed not in good faith I  
22 guess because she was obnoxious or too pushy or because she  
23 cursed at Carolyn Meadows. And, by the way, her cursing at  
24 Carolyn Meadows and calling her names was not the  
25 whistleblower complaint. The letters and writings that she

**Plaintiff Summation/Ms. Connell**

1 submitted, the inquiry into payments to board members,  
2 financial improprieties deals with vendors, those were her  
3 whistleblower complaints and they were ignored. NRA  
4 officials took no ownership of their obligations to enforce  
5 whistleblower protections.

6 If we can go to Slide 73, Jesse.

7 You heard from Rocky Marshall, for example. Here's  
8 Carolyn Meadows. She had no obligation under the  
9 whistleblower policy. She didn't believe that she did, and  
10 maybe that's why she sent letters to the entire board  
11 calling Judge Journey, essentially, a liar, impugning his  
12 reputation he said. Maybe that's why she sent a letter to  
13 Timothy Knight, Esther Schneider and Sean Maloney stripping  
14 them of their committee assignments.

15 If we could go to Slide 76, and I'll move really  
16 quickly, Jesse. I'll call out the important ones.

17 Carolyn Meadows said, Hey, it is my prerogative to  
18 give you an assignment and I -- if you, if you do the wrong  
19 behavior, like, make accusations against Wayne, you're not  
20 getting assignments. And if you had any doubt that this is  
21 stripping somebody of their committee assignments rather  
22 than a fair decision not to reappoint them.

23 If you recall, Marion Hammer sent an e-mail to the  
24 whole board and to much of the board saying, yeah, they're  
25 disloyal. They joined in attacks. They were stripped of

**Plaintiff Summation/Ms. Connell**

1 their committee assignments, and it was understood as  
2 punishment. Esther Schneider understood it as such.

3 Other board members suffered similar retaliation.  
4 Rocky Marshall who had been found highly qualified by the  
5 nominating committee the first time he ran for the board;  
6 after he raised complaints was found not qualified.

7 The fact is the people who are not in what Willes  
8 Lee called the echo chamber were ousted from the board.

9 Can you go the next one, Jesse? I want to see if  
10 there's anything else in there.

11 Mr. Malone wrote a letter talking about his ouster  
12 asking, begging Carolyn Meadows to be reappointed to at  
13 least the Grassroots activity committee for which he had  
14 received an award in previous years.

15 He was -- she refused to listen to his letter. You  
16 should read his letter, and in one second -- oh, ask to see  
17 PX 2094, Malone's letter demonstrating his deep commitment  
18 to the NRA.

19 But, Mr. Frazer and if you read that letter, you'll  
20 see Mr. Malone said to Ms. Meadows, I want to still be on  
21 the committee. I need to be on the committee. I care about  
22 it, but I have to do my fiduciary duties. That means I have  
23 to ask questions. Didn't matter. He was out. He was  
24 perceived as disloyal. He was a whistleblower, and he was  
25 out. So, please ask for 2094 and take a look at it.

**Plaintiff Summation/Ms. Connell**

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But, according to Mr. Frazer, he's not a whistleblower. He did not act in good faith, so he doesn't even have to be evaluated.

This is true with many of the other whistleblowers that we've talked about.

I'd like to move on to the related-party transactions.

Please, if that's possible, Jesse.

You heard from Jeffrey Tenenbaum that ratifying a conflict of interest which is transaction, which is a large umbrella of transaction where someone's loyalty might be divided between the NRA and someone else. That reviewing a large number of conflict-of-interest transactions after the fact, it is unheard of. That he's never seen an organization ratify more than five at a time or at once even, and he had never seen a nonprofit ratify dozens. And yet you will see here that, as I said, the NRA in a short period of time ratified 33 conflict-of-interest and/or related-party transactions.

Related-party transactions are a subset of conflict-of-interest transactions. The Judge will explain what they are; but they're essentially when the NRA forms a financial arrangement with a board member or executive or a key person within the NRA, and those have to be approved in

**Plaintiff Summation/Ms. Connell**

1 advance by the board. And if they're entered into, then  
2 they have to be ratified according to the procedures that  
3 the Judge will explain.

4 You saw evidence that the NRA paid money to  
5 insiders, including Lieutenant Colonel Oliver North, Marion  
6 Hammer, Dave Butz, David Keene, Sandra Froman. You saw  
7 evidence that perhaps the board considered or tried to  
8 ratify some of these transactions.

9 We're going to ask you that once you hear the law  
10 from the Judge, you go back and look at these,  
11 quote/unquote, approvals or ratifications and say, Were  
12 these really approvals and ratifications?

13 For example, the 2018 approval and ratification of  
14 the North contract didn't even reveal he was supposed to get  
15 7 million dollars for that contract.

16 Is that really what's really happened? You heard  
17 about these minutes, alleged minutes. Take a look and see  
18 if you find them credible and say did those really give the  
19 information that the Audit Committee needed to ratify or  
20 approve these transactions? And why weren't they included  
21 in the report that other board members see?

22 We've heard that maybe if you looked in the right  
23 place on the 990, you could figure out that at some times  
24 some board members got some money. That's not how it is  
25 supposed to work. Okay, these are transactions that are

**Plaintiff Summation/Ms. Connell**

1 supposed to be open, above board, transparent and approved  
2 by the Audit Committee after consideration of all relevant  
3 facts as fair, reasonable and in the best interest of the  
4 NRA.

5 The NRA arranged a contract with Colonel North that  
6 had no written approval from all required parties, no  
7 signature -- contract signature review sheet, no business  
8 case analysis and was not approved in advance.

9 The other related-party transactions had similar  
10 problems, and you can look at the trial testimony if you  
11 ask. If you have questions about this and ask, we can show  
12 you exhibits and trial testimony at the bottom of each  
13 slide.

14 If we can move on. That would be great.

15 I will note one thing, too, about value delivered  
16 by these services. Other than Ms. Hammer to whom the NRA  
17 has that ten-year contract with, the NRA stopped engaging in  
18 all of those related-party transactions soon after the  
19 ratification.

20 If the NRA was really getting value for them, if  
21 the NRA was really getting the benefit of the bargain, why  
22 stop them? Why not carry them on? If, if David Keene's  
23 speeches are bringing in new members, new donors and making  
24 money for the NRA or advancing its cause, why stop it? But  
25 that's what they did because they rubber stamped them, they



**Plaintiff Summation/Ms. Connell**

1       ratified them with cursory review and then they stopped them  
2       because they knew they wouldn't hold up to real scrutiny.

3               Just to go back to the certain related-party  
4       transactions with executives, you're going to be asked to  
5       determine whether related-party transactions involving  
6       Wayne LaPierre, and Joshua Powell and Woody Phillips were in  
7       fact illegal related-party transactions. We allege that  
8       they were.

9               LaPierre caused the NRA to pay vendors for hair and  
10       makeup for his wife in the amounts of at least \$41,876  
11       between May 2017 and 2018 alone. No written approval, no  
12       contract signature sheet, no business case analysis. But,  
13       more importantly, no approval by the Audit Committee.  
14       That's a related-party transaction.

15              Mr. Phillips, post employment consulting agreement.  
16       This is outrageous. He is a CFO and treasurer during the  
17       course correction. He signs an agreement to which he's  
18       entitled to a flat rate of \$30,000 a month, plus \$3,500 for  
19       office rental; and he has to deliver nothing in exchange.  
20       You heard his counsel say, well, he made himself available.

21              I'm sure we'd all like to have a job where we got  
22       paid \$30,000 a month to be available. I would like that  
23       job; but that is not, that is not an appropriate -- that is  
24       illegal under New York law. It is an illegal related-party  
25       transaction. It wasn't approved by the board. It wasn't

**Plaintiff Summation/Ms. Connell**

1 fair, reasonable, in the NRA's best interest.

2 And even though the NRA stopped under Craig Spray  
3 paying it after a few months, it did pay \$170,692 to  
4 Mr. Phillips. That was an illegal related-party  
5 transaction.

6 The NRA also paid McKenna & Associates over  
7 5 million dollars from 2017 to 2019.

8 They hired Joshua Powell's wife. Mr. Powell was  
9 hired by Mr. LaPierre and held various positions, including  
10 chief of staff. That was not approved in advance by the  
11 Audit Committee.

12 And the NRA while it had been paying McKenna for  
13 years, you'll see in the Audit Committee report that it --  
14 it increased those payments and retroactively ratified  
15 them.

16 It also paid Mr. Powell's father for photographic  
17 services. Now, is it coincidence that the NRA suddenly  
18 hired the father of an executive to perform services for  
19 \$102,000? That seems unlikely to me. That should have been  
20 approved by the Audit Committee in advance. It was not. It  
21 was retroactively rubber stamped.

22 Mr. Frazer, you heard him testify often presented  
23 these related-party transactions and conflict-of-interest  
24 transactions to the board. When you look at them, see if  
25 the board had and recorded all the information it should

**Plaintiff Summation/Ms. Connell**

1 have. See if it is clear that the board looked at how this  
2 occurred and took steps to make sure there wouldn't be  
3 further ratifications in the future, whether it considered  
4 alternative transactions. Whether it ensured that the  
5 amounts paid if they're set out in the report are fair and  
6 reasonable and in the NRA's best interest.

7 I'll say one last thing about Audit Committee and  
8 review of transactions.

9 As I said, when Mr. Frazer learned as late as of  
10 2021 about Mr. LaPierre's conflict of interest with MMP, he  
11 did nothing about it.

12 Ladies and gentlemen of the jury, we don't have  
13 time to run through each and every violation that we allege  
14 occurred and each and every breach of duties that the  
15 defendants owed the individual defendants, owed to the NRA;  
16 but I would point a couple of things out to you.

17 We do ask for removal of Mr. LaPierre and  
18 Mr. Frazer. Mr. LaPierre has retired; but what the jury is  
19 going to be asked to determine, was there cause to remove  
20 him? And we would suggest to you that his rampant  
21 violations of internal control, his self-interest, his  
22 misuse of NRA funds demonstrates there was cause for  
23 removal.

24 You are not being to asked to determine -- you will  
25 see no question on that verdict sheet that he be ban from

## Plaintiff Summation/Ms. Connell

1 ever working for a nonprofit. That is not something that is  
2 before you.

3 We would also ask that you determine that there was  
4 cause to remove Mr. Frazer, and I understand that that may  
5 be difficult.

6 Mr. Frazer's counsel got up here and was moved,  
7 right? He got emotional; but the Judge is going to explain  
8 to you that you have to put sympathy aside and you have to  
9 think is this a man who performed his obligations as  
10 secretary of the NRA? Is this a man who met his fiduciary  
11 obligations? Is this a man to whom the NRA properly  
12 entrusted oversight of the NRA and of its donated funds and  
13 of its compliance with the law and its management of legal  
14 risk? And we would suggest to you that he is not.

15 During his opening statement, Mr. Frazer's attorney  
16 asked you to think of him like a traffic cop, trying to  
17 identify issues and steer them. I would say -- I would say  
18 that someone in his position is much more important than  
19 that. He's a board officer. And if he's a traffic cop,  
20 then he should be someone who when they see violations of  
21 the law or violations of NRA policy is telling people stop,  
22 don't. He's holding them accountable. But, you didn't see  
23 much evidence of that at all.

24 Mr. Frazer did give compliance seminars. That's  
25 great, but you heard Ms. Rowling admit they weren't even

**Plaintiff Summation/Ms. Connell**

1 mandatory until 2022. You heard testimony that Mr. LaPierre  
2 didn't even attend one until December 2021.

3 Compliance seminars is a great step in the right  
4 direction. Does it make an effective fiduciary? I would  
5 say the record here demonstrates it does not.

6 Mr. Frazer went along with secrecy. He didn't give  
7 board members information. I think we told you he didn't  
8 give board members information about important settlements  
9 and legal developments.

10 So, we would ask that you check "yes" that there is  
11 cause to remove Mr. Frazer.

12 I'd like to very quickly move on to false filings  
13 and then damages.

14 Jesse, if you have the false filing slides  
15 possible.

16 You heard about the importance of regulatory  
17 filings from Mr. Tenenbaum. You heard if we move on to the  
18 next slide, that it provides a wealth of information for  
19 members, donors, regulators, and people interested in  
20 charity.

21 And you heard that one of the questions the IRS  
22 Form 990 asks about is conflict-of-interest policies. Does  
23 the -- does the organization regularly and consistently  
24 monitor and enforce that policy? For the 990s from 2016 to  
25 2019 the NRA checked "yes" to that box. Mr. Frazer

## Plaintiff Summation/Ms. Connell

1  
2 certified that that was true and correct to the best of his  
3 knowledge.

4 Who at the NRA is responsible for making sure  
5 that's true? It is Mr. Frazer. He's in charge of the  
6 question about governance; but what happened starting in  
7 2018? Well, with the Audit Committee's help and with  
8 Mr. Frazer's help, the Audit Committee rubber stamped dozens  
9 of related-party and conflict-of-interest transactions; some  
10 of which have been ongoing for years and, yet, they still  
11 checked the box that they enforced -- they hadn't enforced a  
12 conflict-of-interest policy. We submit to you that was a  
13 false filing for which the NRA and Mr. Frazer should be  
14 responsible.

15 Not only that, they continued checking that into  
16 2021 after Mr. LaPierre -- into 2022 after Mr. LaPierre had  
17 revealed his conflict of interest to have been ongoing for  
18 years.

19 Does the rubber stamping of multiple conflicts of  
20 interest sound like regular consistent enforcement of a  
21 conflict-of-interest policy? No. That's a false filing.

22 The 990 also asks whether there is a significant  
23 diversion of assets. For 2020 to 2022, the NRA checked  
24 "no", but between 2020 and 2022, Mr. LaPierre repaid  
25 according to him one million dollars to the NRA for wrongful

**Plaintiff Summation/Ms. Connell**

1 benefits, personal benefits that he had received. We submit  
2 to you that that box should have been checked, wrongful  
3 diversion box.

4 You heard a lot in the trial about Schedule J,  
5 which asks questions about particular types of compensation  
6 that executives received, like first class and charter  
7 travel and housing payments and health social club dues.  
8 You heard the NRA did not have or did not enforce those  
9 policies for years. Until 2021, the NRA had only a written  
10 policy for first class travel, and we know now that that was  
11 violated rampantly.

12 It isn't until -- I'm sorry, the 990 also asked  
13 whether the nonprofit requires substantiation prior to  
14 reimbursing or allowing expenses incurred for those perks,  
15 and we have heard that the NRA did not enforce that policy.  
16 Executives got perks and didn't pay for it, didn't pay for  
17 them. So, we would say that the NRA had a false filing in  
18 that matter.

19 It isn't until the 2019 990 filing 2020 after the  
20 complaint in this action was filed that the NRA told the  
21 truth, it had no written policy for charter travel or health  
22 clubs.

23 We ask that you look at the verdict sheet, you  
24 check "yes" on the questions as to whether there was a false  
25 filing.

**Plaintiff Summation/Ms. Connell**

1           Again, I apologize for having to run through these.

2           You're going to be asked to determine whether the  
3 individual defendant should repay -- if we can go to slide  
4 212, please, Jesse -- damages or restitution related to the  
5 NRA-related penalties.

6           Mr. LaPierre admits that he traveled by private  
7 plane without NRA approval and in violation of NRA policies  
8 from 2014 to 2019. That's the relevant period of time we're  
9 asking for damages for. That total \$10,455,307 from  
10 May 15th to December of 2019 the NRA paid \$3,222,358 for  
11 flights that Mr. LaPierre either was going as a passenger or  
12 where the flights stopped in the Bahamas, Nebraska. These  
13 flights had a personal component and had no security  
14 justification.

15           You heard Mr. LaPierre say that Gayle Stanford  
16 committed a fraud on the NRA. The NRA paid millions of  
17 dollars to her. And I'm sorry, I'm rushing through, but you  
18 can ask that this be read back or you can ask for  
19 information about how much the NRA paid to Gayle Stanford.

20           You saw Mr. Hines calculate that we believe those  
21 are monies that should be repaid to the NRA.

22           You heard evidence recently that Associated TV, a  
23 NRA vendor to which the NRA from 2015 to 2019 paid  
24 \$13,213,165 was a fraudster, that there's no evidence of any  
25 value being received by the NRA for these payments.



**Plaintiff Summation/Ms. Connell**

1 Mr. LaPierre testified yesterday that Associated TV  
2 committed a fraud on the organization.

3 These are damages, these are -- this is a  
4 restitution that should be repaid to the NRA.

5 Mr. LaPierre was the manager of this organization.  
6 Mr. Phillips helped him make those payments. You should  
7 look at that amount of money and decide how much of it  
8 should be repaid by Mr. LaPierre and Mr. Phillips.

9 By the way, Mr. LaPierre admits he was the owner of  
10 the Associated TV contract. Mr. LaPierre says he was  
11 shocked by Mr. McKenzie's betrayal, but that's not credible.  
12 Concerns were raised about the McKenzie and Associated TV in  
13 the Board Variance Report in the mid nineties.

14 These are things that the NRA had knowledge about.  
15 So this is why in part you should hold the individual  
16 defendants responsible, particularly Mr. LaPierre and  
17 Mr. Phillips, because they were on notice of the  
18 wrongfulness of these expenditures. If you remember the  
19 Board Variance Report raised concerns about those  
20 expenditures.

21 If we could move on to Slide 219.

22 From 2015 to 2022, the NRA paid the MMP entities  
23 \$109,595,600. As you've now heard numerous times in this  
24 case, this was an overpayment of the contract amount.

25 If we can go on to Slide 220.

**Plaintiff Summation/Ms. Connell**

1           You heard that in 2022, under scrutiny of this law  
2 enforcement action, the NRA finally renegotiated its terms  
3 with MMP at a 46-percent reduction in what was being paid  
4 while belated renegotiations offer an accurate measure of  
5 the actual worth of the services the MMP entity offered as  
6 David Warren who Mr. LaPierre described as a top person in  
7 the Financial Services Division said, "This is a win, win,  
8 win."

9           THE COURT: Ms. Connell, I gave a short window to  
10 the NRA to go a little over. You're now at about the end of  
11 that.

12           MS. CONNELL: Can I just have like two more  
13 minutes, your Honor?

14           THE COURT: Two more.

15           MS. CONNELL: Thank you.

16           We would argue that Mr. -- that the amounts of  
17 overpayment by MMP should be split between Mr. LaPierre,  
18 Mr. Phillips and Mr. Frazer because he did nothing once he  
19 learned of the conflict of interest between LaPierre and MMP  
20 until the contract was renegotiated in 2022.

21           You heard that the NRA paid \$4.3 million in  
22 out-of-pocket expenses that did not go through and were not  
23 compliant with the NRA's travel and expense reimbursement  
24 process. We believe those are damages that should be repaid  
25 by the individual defendants.

**Plaintiff Summation/Ms. Connell**

1           Some of those you'll see were stamped and approved  
2           by Mr. Frazer. They were paid by Mr. Phillips, and  
3           Mr. LaPierre was the manager of that relationship and should  
4           be responsible for that, for those payments.

5           Finally, under Wild Skies, we would say that  
6           payments of \$2,340,000 by the NRA to Under Wild Skies is  
7           also a wrongful transaction for which Mr. LaPierre and  
8           Mr. Phillips should be liable. There was -- the NRA,  
9           itself, admits that they were fraudulent.

10           Phillips' commuting costs which appeared on PX 2347  
11           are also wrongful-related charges, wrongful charges for  
12           which they should have to repay.

13           And, I'm sorry, I don't have time to go through all  
14           this here. Ladies and gentlemen, in conclusion, I want to  
15           thank you for your time and effort and attention.

16           I want to say that charities play an important role  
17           in our society. Whether or not you support and believe in  
18           the mission of the NRA is not important. It is not what is  
19           at issue here. The charities allow people to come together  
20           and serve an important purpose; but they have to have trust  
21           in the charity and trust their donated funds will be used  
22           for the purposes they were donated for.

23           You heard about how charities are vulnerable to  
24           waste, loss and diversion. We submit that the evidence in  
25           this case has shown the defendants breached the trust placed

1 in them, had breached, violated or evaded each of the  
2 safeguards intended to prevent such actions in charities and  
3 had violated the law.

4 (Continued on next page)

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**Plaintiff Summation/Ms. Connell**

1 MS. CONNELL: No one is above the law. You don't  
2 have to find that the Defendants are bad or evil. You don't  
3 have been to touch upon or consider anything else but  
4 whether they violated the law. And if you do find that they  
5 breached the trust that was placed in them and the laws as  
6 explained to you by the Court, we ask that you do the right  
7 thing and hold them liable for their conduct in this case.

8 Again, I apologize for rushing at the end. Thank  
9 you, your Honor, for the extra time, and thank you all for  
10 your absolute dedication and attention over these last six  
11 weeks. It's much appreciated.

12 THE COURT: Thank you, Ms. Connell. Thank you all,  
13 Counsel.

14 Okay, folks. That's it for the day. We will  
15 reconvene tomorrow at 9:30. I'll go through instructions,  
16 and then we will select the alternates and then the rest of  
17 you will start deliberations.

18 THE COURT OFFICER: All rise. Jury exiting.

19 (Whereupon, at this time the jury exits  
20 the courtroom.)

21 THE COURT: Okay. Well done, everyone. I will see  
22 you tomorrow. We have all had a lot of late nights.  
23 Hopefully, this is not one of them and my staff and I are  
24 planning to leave soon. So we are assuming that we are  
25 pretty much a wrap on all the documents that were provided

1 earlier today.

2 See you tomorrow.

3 (Whereupon, at this time the trial was continued  
4 until February 16, 2024.)

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	<b>4637:10</b>	<b>4587:7;4591:24;</b>	<b>4504:14;4584:11</b>	<b>4531:16;4670:23;</b>
<b>\$</b>	<b>\$7 (2)</b>	<b>4594:7,9;4597:13;</b>	<b>acknowledge (1)</b>	<b>4672:10;4689:5</b>
	4581:10;4602:7	<b>4603:3;4606:23;</b>	4659:12	<b>actually (32)</b>
<b>\$10 (1)</b>	<b>\$90,000 (1)</b>	<b>4643:19,20;4666:10</b>	<b>acknowledged (2)</b>	4479:5;4483:14;
4546:7	4583:11	<b>accountants (18)</b>	4555:8;4659:21	4485:24;4513:5;
<b>\$10,455,307 (1)</b>	<b>\$900 (1)</b>	4496:4,4,5,9;	<b>acquaintance (1)</b>	4544:23;4556:2;
4687:9	4644:11	4500:13;4510:12,13;	4521:14	4563:13;4564:15;
<b>\$100,000 (1)</b>	<b>\$98,000 (1)</b>	4563:25;4569:3;	<b>acquiesce (1)</b>	4567:24;4568:22;
4641:4	4645:5	4572:5,12;4578:1,2;	4628:4	4571:8,9;4589:2;
<b>\$102,000 (1)</b>	<b>A</b>	4592:9;4594:22;	<b>acquiesced (1)</b>	4590:10;4592:1;
4681:19		4596:22;4604:18,19	4628:8	4594:11;4596:7;
<b>\$109,595,600 (1)</b>	<b>AAG (1)</b>	<b>accounting (7)</b>	<b>acquisition (1)</b>	4597:25;4619:18;
4688:23	4643:15	4502:19;4558:12;	4514:24	4628:6;4631:20;
<b>\$12 (1)</b>	<b>abiding (1)</b>	4585:6;4586:22;	<b>across (3)</b>	4637:22;4642:22,23;
4670:8	4591:22	4593:5;4596:4;	4484:7;4624:20;	4643:20,21,21,23,24;
<b>\$13,213,165 (1)</b>	<b>ability (2)</b>	4643:22	4625:19	4659:5;4661:9;
4687:24	<b>able (14)</b>	<b>accounts (2)</b>	<b>act (9)</b>	4663:16
<b>\$140 (1)</b>	4485:13;4670:9	4648:2;4651:3	4491:19;4551:12;	<b>ad (2)</b>
4528:23	<b>ad (1)</b>	<b>accuracy (1)</b>	4567:4;4571:20;	4588:8,11
<b>\$170,692 (1)</b>	4483:24;4503:1;	4660:13	4608:9,17;4609:17;	<b>add (5)</b>
4681:3	4512:21;4520:22;	<b>accurate (5)</b>	4666:18;4677:3	4476:1;4477:4;
<b>\$19 (2)</b>	4538:3;4542:7,8;	4478:13;4485:20;	<b>acted (22)</b>	4482:7;4588:5;
4629:8;4630:11	4556:24,25;4557:1;	4596:7;4662:10;	4492:3,5;4502:1;	4594:9
<b>\$194,000 (1)</b>	4578:5;4618:20;	4689:4	4525:20;4534:25;	<b>added (4)</b>
4528:18	4666:22,25	<b>accusation (2)</b>	4535:7,13;4536:2,5,	4478:24;4481:18;
<b>\$2,340,000 (1)</b>	<b>above (6)</b>	4510:17;4596:20	25;4557:16,17;	4482:16,21
4690:6	4509:14;4641:24;	<b>accusations (3)</b>	4565:7;4567:25;	<b>addition (2)</b>
<b>\$200 (1)</b>	4647:7;4656:2;	4571:2;4601:3;	4573:4;4584:16;	4513:12;4520:16
4515:9	4679:1;4692:1	4675:19	4590:19;4604:4;	<b>additional (3)</b>
<b>\$202 (1)</b>	<b>absolute (2)</b>	<b>accuse (1)</b>	4606:17;4647:10;	4516:3;4520:11;
4528:20	4670:4;4692:10	4571:3	4651:23;4673:8	4599:4
<b>\$25,000 (1)</b>	<b>abundance (3)</b>	<b>accused (9)</b>	<b>acting (14)</b>	<b>address (5)</b>
4517:11	4501:10;4525:4,10	4493:22;4513:5;	4493:23;4501:18;	4513:16;4531:11;
<b>\$250 (2)</b>	<b>abuse (3)</b>	4557:7;4568:19;	4518:11;4526:14;	4533:18;4539:7;
4639:15;4640:10	4606:14;4646:11,	4582:15;4583:7;	4550:5,12,13,13,14;	4636:4
<b>\$250,000 (2)</b>	13	4588:19;4596:19;	4571:3;4584:24;	<b>addressed (5)</b>
4661:25;4662:23	<b>accept (4)</b>	4667:25	4585:12;4652:21;	4558:4,4;4583:24;
<b>\$3,222,358 (1)</b>	4482:17,25;	<b>accuses (1)</b>	4672:15	4585:17;4657:15
4687:10	4560:21;4656:5	4653:2	<b>action (19)</b>	<b>addressing (1)</b>
<b>\$3,500 (1)</b>	<b>accepted (1)</b>	<b>achieve (1)</b>	4478:7;4485:24;	4532:13
4680:18	4482:19	4549:23	4549:10;4551:1,6;	<b>adds (1)</b>
<b>\$3,700 (1)</b>	<b>accepting (4)</b>	<b>achieving (1)</b>	4556:5,15;4601:17;	4591:24
4620:5	4473:9;4554:5,6;	4551:5	4628:19;4632:13;	<b>adequate (1)</b>
<b>\$30 (1)</b>	4639:22	<b>Ackerman (54)</b>	4633:21;4639:25;	4591:18
4528:19	<b>accident (1)</b>	4502:15;4503:5,22;	4666:18;4671:12,14,	<b>adhere (2)</b>
<b>\$30,000 (2)</b>	4613:22	4504:11,12;4506:6,8,	22,23;4686:20;	4482:2,9
4680:18,22	<b>accompanied (1)</b>	9,17,19;4517:16,17;	4689:2	<b>adjusted (1)</b>
<b>\$300 (1)</b>	4545:18	4518:8;4519:5;	<b>actions (6)</b>	4555:20
4529:6	<b>accompany (1)</b>	4566:3;4572:1,6,7;	4533:23;4591:13;	<b>administer (4)</b>
<b>\$398,000,000 (1)</b>	4546:19	4574:21,22,24;	4616:6,9;4670:15;	4564:21;4651:5;
4528:25	<b>accomplish (1)</b>	4575:8;4579:5,15;	4691:2	4663:25;4670:12
<b>\$4.3 (2)</b>	4473:2	4580:25;4581:11,17,	<b>active (3)</b>	<b>administered (3)</b>
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