

Exhibit 44

To Defendants' Memorandum in Support of Motion for
Summary Judgment

1	1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT COURT OF MARYLAND 3 -----x 4 STEPHEN V. KOLBE, et al.,: 5 Plaintiffs, : 6 v. : Civil Case No. 7 MARTIN O'MALLEY, et al., : 13-cv-02841-CCB 8 Defendants. : 9 -----x 10 11 CONTAINS CONFIDENTIAL ATTORNEYS' EYES ONLY PORTIONS 12 Deposition of JAMES CURCURUTO 13 Baltimore, Maryland 14 Friday, January 24, 2014 15 10:03 a.m. 16 17 18 19 20 Job No.: 51436 21 Pages: 1 - 213 22 Reported by: Linda H. Cole	3
2	1 A P P E A R A N C E S 2 ON BEHALF OF PLAINTIFFS: 3 JAMES W. PORTER, III, ESQUIRE 4 BRADLEY ARANT BOULT CUMMINGS, LLP 5 1615 L Street, NW 6 Suite 1350 7 Washington, DC 20036 8 (202) 393-7150 9 10 ON BEHALF OF NATIONAL SHOOTING SPORTS 11 FOUNDATION, INC.: 12 JEFFREY S. YUE, ESQUIRE 13 NATIONAL SHOOTING SPORTS FOUNDATION, INC. 14 11 Mile Hill Road 15 Newtown, Connecticut 06470 16 (203) 426-1320 17 18 19 20 21 22	4
2	1 Deposition of JAMES CURCURUTO, held at the 2 location of: 3 4 5 OFFICE OF THE ATTORNEY GENERAL 6 STATE OF MARYLAND 7 200 St. Paul Place 8 20th Floor 9 Baltimore, Maryland 21202 10 (410) 576-7906 11 12 13 14 15 Pursuant to agreement, before Linda H. Cole, 16 Notary Public of the State of Maryland. 17 18 19 20 21 22	4

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1 **believe in some of the magazines that they have**
2 **instances of them, but it's not something that was**
3 **part of my activities so I never paid too much**
4 **attention to that.**
5 Q So your comment was really related only to
6 the answer to the question in the 2013 modern sporting
7 rifle comprehensive report?
8 A **Right, exactly what the owners had told us.**
9 Q When did the term modern sporting rifle
10 first start being used?
11 A **Approximately 2008, prior to my arrival at**
12 **NSSF, I believe it became prevalent.**
13 Q Do you know who came up with the term?
14 A **The individual? I do not know the**
15 **individual who came up with the term.**
16 Q Was it something that somebody at NSSF came
17 up with?
18 A **I believe so.**
19 Q And was it a term that was adopted as a way
20 to help market modern sporting rifles?
21 MR. PORTER: Object to the form of the
22 question, but you can answer.

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1 A **Run that one by me again. Sorry.**
2 BY MR. FADER:
3 Q Was the term created by NSSF as a means to
4 help better market those firearm?
5 MR. PORTER: The same objection, but you can
6 answer.
7 A **Not being there at the time, I'm not sure of**
8 **the initiative and why it was created. But my**
9 **understanding of the term now is it was to kind of**
10 **group together -- there were a lot of different names**
11 **for the AR- or AK-platform.**
12 **So you could have the AR-15 or somebody may**
13 **call them a black rifle or tactical rifle. So to kind**
14 **of condense those down and have one nice, easy term**
15 **that encompasses all of that would be the MSR or**
16 **modern sporting rifle.**
17 BY MR. FADER:
18 Q And is there a formal definition of that
19 somewhere?
20 A **We do have a Web page at NSSF.org, I**
21 **believe, slash, MSR. I'm not sure if that's exactly**
22 **it, but you can search and find it. There may be a**

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1 **definition there. Again, it's not in my**
2 **responsibilities; it's not a daily thing that I looked**
3 **at. I'm not sure if we have one, but if we did it**
4 **would be there.**
5 Q And some of your -- I've looked through your
6 Web site, and some of it is off-limits because I'm not
7 a dues-paying member. There are a number of areas of
8 your Web site that can't be accessed by somebody who's
9 not a paying member. I wasn't able to find a
10 definition, and I'm just really trying to get a handle
11 on how we know what we're talking -- or what NSSF is
12 talking about in using that term. So you said AR- and
13 AK-platform rifles.
14 A **Semiautomatic rifles.**
15 **(Witness coughs.)**
16 MR. PORTER: Do you need a break?
17 THE WITNESS: Maybe.
18 **(Break taken.)**
19 BY MR. FADER:
20 Q So just before the break we were talking
21 about the term modern sporting rifle, and you
22 identified that it includes AR-platform and

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1 AK-platform semiautomatic rifles.
2 Are there any other platforms that it
3 covers?
4 A **It is hard to nail down exactly what a lot**
5 **of different people consider a modern sporting rifle.**
6 **That's one of the reasons I think we developed the**
7 **term there, to put into perspective what all of these**
8 **different guns are. Similar to renting a car, you had**
9 **a mid size car and a luxury car and all of that stuff,**
10 **but you don't know exactly what's a mid size car until**
11 **you go get it, that sort of thing.**
12 **For the bulk of it, a modern sporting rifle**
13 **would be a semiautomatic AR- or AK-platform rifle and**
14 **the variances thereof. Each individual manufacturer**
15 **would have, you know, a different name for it, product**
16 **line for it.**
17 Q Each manufacturer of a modern sporting rifle
18 would have a different name for whatever they
19 considered to be a modern sporting rifle?
20 A **Sure. So, for example, Ruger has an R-15**
21 **that's a modern sporting rifle. Colt has the LE901**
22 **that would be considered a modern sporting rifle. So**

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1 **Colt doesn't say it's a Colt modern sporting rifle.**
2 **They call it the Colt LE901.**
3 Q And with respect to any particular one of
4 those, what would be the things that would make it a
5 modern sporting rifle? How could I tell looking at
6 one?
7 A Sure. Well, as with shotguns, where you
8 have different types of shotguns and they each have
9 their own categories, over-and-under, versus
10 side-by-side, versus a semiautomatic, versus a single
11 shot, rifles also have different types of categories.
12 So, we've got the modern sporting rifle and
13 we've got the traditional rifle. Those are the two
14 main categories there. So it's easily identifiable by
15 the look of it because it looks different than a
16 traditional rifle, which would be more of a
17 bolt-action or a lever-action rifle.
18 The term modern sporting rifle, I think an
19 easy way to identify it is imaging so in ads and that
20 sort of stuff.
21 Q And what are the factors looking at it that
22 would tell you it's a modern sporting rifle?

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1 A Sure. It has -- for the most part, they
2 have a pistol grip, as well as a detachable magazine.
3 So those are two features that differentiate the look
4 of it. Traditional rifles -- a traditional
5 semiautomatic rifle works the same as a modern
6 sporting rifle, semiautomatic rifle, but they just
7 look different. They are easily identifiable by
8 imaging.
9 Q When you say an AR-platform, what does that
10 encompass?
11 A There are, again, a number of different
12 variations, but the AR-15 would be the most popular, I
13 believe.
14 Q Is the AR-15 by far the most popular
15 AR-15-platform (sic) firearm?
16 MR. PORTER: Object to the form of the
17 question. You can answer, if you can.
18 A When we say AR-platform, AR-15, I believe,
19 would be the most popular AR-platform.
20 BY MR. FADER:
21 Q Is there any other AR-platform rifle that
22 comes close to the popularity of the AR-15?

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1 MR. PORTER: Object to the form of the
2 question, but you can answer, if you can.
3 A Not that I can think of right now.
4 BY MR. FADER:
5 Q And you're here providing expert testimony
6 with respect to the numbers of modern sporting rifles
7 that are in the United States commercial market; is
8 that right?
9 A Correct.
10 Q So you've done -- or I guess not done, but
11 you have retained third-party firms to look into how
12 many modern sporting rifles have been produced for the
13 U.S. market; is that right?
14 A The production figures I had conducted
15 myself. The third-party firms were the consumer
16 study, the participation study, and the retailer
17 study, but the production numbers I had conducted.
18 Q And the production numbers are the
19 information that you got from the ATF and the ITC?
20 A Correct.
21 Q And the ATF and ITC numbers don't break down
22 based on whether something is a modern sporting rifle

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1 as opposed to any other kind of rifle, do they?
2 A They do, and they don't. If we can refer to
3 Exhibit 4?
4 Q Okay.
5 A Again, U.S. firearms manufacturers are
6 required to report their production to the ATF. The
7 ATF takes approximately 18 months to go through them
8 and look for inaccuracies and that sort of thing.
9 Then the reports break down by categories. So you've
10 got rifle manufacturers, you've got pistol
11 manufacturers, and you've got shotgun manufacturers.
12 So what I did is I look through the rifle
13 manufacturers page by page and identify either by my
14 own knowledge or look up companies individually on the
15 Internet and see what type of products they
16 manufacture.
17 In many instances firearms manufacturers of
18 modern sporting rifles, such as Rock River, when you
19 look at their Web site, the product line they make is
20 all modern sporting rifles, again, by the look of them
21 and the features that they have.
22 So we know that we can count all of the

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1 production figures from those companies as modern
2 sporting rifles. I believe that Exhibit 6 -- no.
3 What happened to the -- give me a second here. It is
4 Exhibit 6. I had it covered up.
5 Exhibit 6 lists some of the U.S.
6 manufacturers, approximately 37 of them or 37 of them,
7 that we use to calculate the second column there, the
8 U.S. production. I believe 33 of them, when you look
9 at their product mix, it's all modern sporting rifles.
10 So we can say 100 percent of that ATF data goes into
11 those production figures.
12 There are approximately four companies that
13 produce both traditional rifles and modern sporting
14 rifles. So that is, as you mentioned, not broken out
15 in the ATF AFMER data. So I called up those
16 individual companies on a confidential basis.
17 I said the AFMER data says you produced this
18 many in this year. Approximately how many of them are
19 traditional versus modern sporting rifle? That's
20 aggregated in here as well, not individual.
21 Q Okay. And which are the companies that
22 produce both traditional and modern sporting rifles?

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1 A Let's see. We've got Remington; Smith &
2 Wesson; Sturm Ruger. Let me find my fourth one here.
3 Maverick.
4 Q Okay. So all of the others listed in the
5 right column of Exhibit 6 you believe manufacture only
6 what you would call modern sporting rifles?
7 A Correct. And those four were ones that I
8 wanted to look further into.
9 Q And of the other 33, your determination is
10 based on having looked at them, and you think they
11 have the look of what you consider the modern sporting
12 rifle?
13 A Correct.
14 Q Is that looking at pictures of them on the
15 Web site or is that looking at the actual firearm?
16 A Pictures on the Web site for the most part.
17 Q What are the -- well, let me step back. You
18 were talking about traditional-style rifles and modern
19 sporting rifles. Is there any other subcategory of
20 rifle that you think is out there?
21 A There's single-shot, which is very minimal,
22 maybe 1 percent of the market. But other than that,

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1 we've got -- I think of those two categories, the
2 traditional one can be broken down further, again, the
3 bolt-action, the lever-action, and other semiautomatic
4 rifles that don't have the features that the
5 AR-platform have, but function the same.
6 Q So those would be semiautomatic rifles that
7 may not have the pistol grip or detachable magazine?
8 A Correct.
9 Q So there are semiautomatic rifles in both
10 categories, in modern sporting rifles as well as
11 traditional style?
12 A Correct. They work the same, but look
13 different.
14 Q And are any of the firearms that you put in
15 the modern sporting rifle category anything other than
16 semiautomatic?
17 A No.
18 Q So there are no bolt-action or anything like
19 that that you would consider to be a modern sporting
20 rifle?
21 A Right, not the traditional bolt-action.
22 Q What about an AK-platform rifle; what's

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1 that?
2 A An AK-platform has a similar look to the
3 AR-platform. The main difference there is those are
4 mainly imported. AK, the history of them,
5 Kalashnikov, they were a Russian-built firearm. I
6 believe the AK-47 original version was fully automatic
7 for military purposes, and then the semiautomatic was
8 a civilian model of that.
9 Q Do you also identify them based on their
10 appearance?
11 A Correct.
12 Q Pistol grip and detachable magazine?
13 A Yeah, detachable magazine and pistol grip.
14 For the most part, yeah.
15 Q It sounds like you sort of apply an
16 I-know-it-when-I-see-it test; is that fair?
17 A Correct.
18 MR. PORTER: Object to the form of the
19 question. You can answer.
20 A Correct. Imaging is the easy way to
21 identify a modern sporting rifle versus traditional.
22 BY MR. FADER:

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1 **product a MSR, it's a MSR, this is my own opinion.**
2 **I believe the last one we mentioned was --**
3 BY MR. FADER:
4 Q The Colt AR-15.
5 **A So we'll move on down to R(2)(xxvii),**
6 **Avtomat Kalashnikov semiautomatic rifle in any format.**
7 **Avtomat Kalashnikov would be that AK-platform**
8 **semiautomatic, and I considered that in there. That**
9 **would be it.**
10 Q And is it fair to say that there are also
11 firearms that you would consider to be modern sporting
12 rifles that are not on this list?
13 **A Yes.**
14 Q So there's not complete overlap between what
15 you consider to be a modern sporting rifle and what is
16 in the Maryland law as a banned assault long gun?
17 MR. PORTER: I object to the form of the
18 question. You can answer, if you --
19 **A Can you clarify overlap, please?**
20 BY MR. FADER:
21 Q You have been offered here to testify as to
22 your opinions as to the commonness of what you define

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1 as modern sporting rifles. I'm trying to get a
2 picture of how relevant that is to this case where we
3 are talking about certain firearms that have been
4 banned by Maryland that have the designation assault
5 long guns.
6 So I'm trying to get a sense of where -- of
7 how relevant your opinion is with respect to modern
8 sporting rifles compared to what Maryland has actually
9 banned.
10 So it sounds like you have gone through and
11 based on your knowledge most of the firearms on this
12 list you do not think are modern sporting rifles as
13 you have understood that term in making your
14 opinion -- your expert opinion in this case; is that
15 right?
16 MR. PORTER: I object to the form of the
17 question. I don't think that's what he said, but you
18 can answer his question.
19 **A When looking at this list of, it looks like,**
20 **however many are on the list, the few we discussed**
21 **would be under the umbrella of the modern sporting**
22 **rifle term. And, with the knowledge that if our**

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1 **members identify a certain product as a modern**
2 **sporting rifle, then it would be designated as such.**
3 **I think, yeah, the majority of these appear**
4 **to me, after just a limited review I've had of them,**
5 **not to be considered modern sporting rifles.**
6 BY MR. FADER:
7 Q And are there firearms that are not on this
8 list that you would consider to be modern sporting
9 rifles?
10 **A Well, for example, and I don't know if it's**
11 **covered in here because of the limited time I had to**
12 **review it. But, for example, by make and model, I**
13 **don't know if they are covered in here, for example,**
14 **that Remington R-15, which was an AR-platform**
15 **semiautomatic modern sporting rifle, I don't know if I**
16 **saw how that would be included in this list.**
17 Q Is that a copy of an AR-15?
18 MR. PORTER: Object to the form of the
19 question, but you can answer, if you can.
20 **A It is based on the AR-15 platform.**
21 BY MR. FADER:
22 Q And is it fair to say that you haven't spent

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1 any time to make a determination as to whether the
2 firearms listed in Maryland's law are coextensive with
3 what you define as a modern sporting rifle?
4 **A All right. Define coextensive for me.**
5 Q I'm trying to figure out how closely what
6 you've looked at in your expert report match up with
7 Maryland's law. It sounds like you haven't done an
8 analysis to determine how closely they match up; is
9 that right?
10 **A Correct. When we had conducted the study,**
11 **I'm not sure if the Maryland law was in effect.**
12 Q Since that time, you haven't gone through
13 the list in order to determine how closely they match
14 up; correct?
15 **A Correct.**
16 Q Do you have an understanding of what the
17 term assault weapon means?
18 **A I have an opinion on what the term assault**
19 **weapon means; yes.**
20 Q What is that?
21 **A I believe it originated as a political term**
22 **for different uses, and it's used by various different**

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1 **politicians and media to push an agenda. So...**
2 Q Were you finished?
3 **A For example, a politician may consider what**
4 **I call a modern sporting rifle an assault weapon.**
5 Q Are you aware of members of the NSSF having
6 used the terms assault weapon or assault rifle in
7 marketing materials?
8 **A Automatic weapon or assault rifle?**
9 Q Yes.
10 **A I'm more familiar that they would have used**
11 **the term assault rifle over assault weapon, but I'm**
12 **not familiar, again, with 10,000 members and all of**
13 **their different advertisements. That's never been**
14 **under my -- a project that I looked at.**
15 Q But it sounds like you have seen
16 advertisements for what you would consider to be
17 modern sporting rifles, where the manufacturer has
18 designated them assault rifles; is that right?
19 **A I have seen numerous ads of modern sporting**
20 **rifles, and I can't recall the text that goes along**
21 **with them. I would assume that somewhere along the**
22 **lines of the thousands of ads over the past 10 years**

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1 **that one of the manufacturers that's currently an NSSF**
2 **member would have used some of that terminology.**
3 **If I had to choose between which two they**
4 **would use, I assume it would have been the assault**
5 **rifle more than assault weapon.**
6 Q And, in fact, your experience goes back
7 before you were with the NSSF with firearms
8 publications. Are you aware that that was a term that
9 was used regularly in marketing what are now called
10 modern sporting rifles?
11 MR. PORTER: Objection to the form of the
12 question. Which term are you referring to?
13 MR. FADER: Assault rifle.
14 **A Historically, going back prior to my arrival**
15 **at NSSF, I never did pay much attention to the**
16 **terminology so I don't have an answer for you there.**
17 BY MR. FADER:
18 Q But now you believe that it's a term that's
19 only used to demonize the firearms; is that right?
20 MR. PORTER: Object to the form of the
21 question. Which term are you referring to?
22 MR. FADER: Assault rifle.

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1 **A Assault rifle? No. Assault weapon? Yes.**
2 BY MR. FADER:
3 Q And what distinction do you see between the
4 use of those two terms?
5 **A I believe that assault rifle, the definition**
6 **of that would be fully automatic, fully automatic**
7 **versions of the AR- and AK-platform. Then**
8 **differentiating them from the consumer side, the AR-**
9 **and AK-platform semiautomatic. So that's one big**
10 **distinction, and I would not include a fully automatic**
11 **rifle in with the modern sporting rifle term.**
12 Q And, when we were talking before about the
13 advertisements that used the term assault rifle to
14 define what you would now consider to be a modern
15 sporting rifle, were you talking about only fully
16 automatic versions or semiautomatic as well?
17 **A Go back and do that one again or ask me that**
18 **one again. I'm not following exactly.**
19 Q We had talked before about the use of the
20 term assault rifle in advertisements for things you
21 would consider to be modern sporting rifles; correct?
22 **A We had talked about that; yes.**

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1 Q And you had said that you didn't know how
2 extensive, but that you had seen advertisements using
3 that term to describe what you would call a modern
4 sporting rifle; correct?
5 **A Correct.**
6 Q And as I understand your definition of
7 modern sporting rifle, it refers only to semiautomatic
8 firearms; correct?
9 **A Correct.**
10 Q So those advertisements that you've seen
11 using the term assault rifle were describing
12 semiautomatic modern sporting rifles; right?
13 **A It's possible. I believe that is one of the**
14 **reasons why the modern sporting rifle term came about**
15 **back prior to my arrival there because there were four**
16 **or five different names, again, the black rifle, the**
17 **tactical rifle, the AR rifle, AR-15, the AK-platform,**
18 **the assault rifle.**
19 **So we try to have one name for the modern**
20 **sporting rifles to identify that they are the**
21 **semiautomatic. And, if someone were to use that term,**
22 **assault rifle, I think there are a lot of different**

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1 **specific of a pattern on how it was produced, but I'd**
2 **have to double-check if the rimfire was in there as**
3 **well.**
4 Q Okay. You have a yellow highlighted star
5 next to rimfire rifles. Was that intended to
6 designate that you thought they might be included in
7 there?
8 A **It was one that we certainly discussed.**
9 **Now, the outcome of which was that or was that not**
10 **part of the numbers that we can include there,**
11 **that's -- I'm just looking at the 10-year total of**
12 **3.5, and our 20-year total is 3.4. I'm assuming that**
13 **it wasn't or maybe just a small percentage of which**
14 **was.**
15 Q And the individual who you consulted to
16 determine whether these categories really were modern
17 sporting rifles, was it one person?
18 A **Correct.**
19 Q And who was that?
20 A **On a confidential basis I had asked them**
21 **what they thought -- of each category, what they**
22 **thought the percentage was. So it was just from an**

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1 **importer, again, on a confidential basis that I'd**
2 **rather not disclose.**
3 MR. FADER: So is there an instruction not
4 to provide the identity of that individual?
5 MR. PORTER: Even for my own purposes, I'm
6 not 100 percent sure what your question was and
7 whether he understood your question. I'm not going to
8 object right now, but maybe if you ask the question
9 again he can answer. I'd like to hear it again. I
10 apologize.
11 BY MR. FADER:
12 Q My understanding is that you relied on data
13 from the ITC relating to the importation of firearms
14 from abroad to come up with the number that you have
15 listed at the bottom of the third column on Curcuruto
16 Exhibit 6 for U.S. imports less exports of modern
17 sporting rifles; is that right?
18 A **Correct.**
19 Q And the data from the ITC does not identify
20 rifles as modern sporting rifles; right?
21 A **Correct.**
22 Q So, in order to find out which of the

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1 categories that are listed in the ITC data were
2 appropriately considered to be modern sporting rifles,
3 you consulted with a particular individual who you've
4 described as an importer; correct?
5 A **Correct. Importer of firearms, importer or**
6 **exporter of firearms with knowledge of that market.**
7 Q And I have asked who that individual is.
8 MR. PORTER: And I'm going to instruct the
9 witness not to answer on the confidentiality basis
10 with which that information was collected.
11 You're free to describe his position and why
12 his opinion would have been useful or relevant or why
13 you relied upon it. You're allowed to hunt all of the
14 way around it, but you can't name the individual.
15 BY MR. FADER:
16 Q So what description can you provide for me
17 of who this individual was?
18 A **Sure. My own personal knowledge of the**
19 **import market is not as broad as some of the people**
20 **that work directly with importing and exporting. So,**
21 **in an effort for me to put out a report that was as**
22 **accurate as possible, I did my own due diligence and**

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1 **came up with the numbers from the ITC queries, looked**
2 **at these codes.**
3 **And, just questioning the codes, I wanted to**
4 **contact somebody that directly worked with importing**
5 **and exporting firearms or rifles, semiautomatic**
6 **rifles. I asked around our office for the name of**
7 **somebody who has a lot of knowledge on the import and**
8 **export of rifles.**
9 **I got a contact name and called them up and**
10 **walked through the process there and then got their**
11 **information, and I incorporated that to, hopefully,**
12 **make a more accurate report with the extra knowledge**
13 **there.**
14 Q So this is not an individual who you knew
15 before you made this call; correct?
16 A **Correct.**
17 Q And how many major importers of firearms are
18 there to this country?
19 A **I do not know for sure. There are not a lot**
20 **of them.**
21 Q Fewer than 10?
22 A **I couldn't tell you.**

177	<p>1 they are not only selling to one type of person and</p> <p>2 that customer base is expanding.</p> <p>3 Q So am I correct in drawing the conclusion</p> <p>4 from that information that a much higher percentage of</p> <p>5 modern sporting rifles sold in the three years between</p> <p>6 2010 and 2013 were sold to individuals who had no law</p> <p>7 enforcement or military background?</p> <p>8 A Correct, the higher percentage.</p> <p>9 Q Enough to shift the total 9 percent?</p> <p>10 A Yeah.</p> <p>11 Q On the next page, page 13, there's</p> <p>12 information about the number of modern sporting rifles</p> <p>13 owned. You have in 2013 the average number of modern</p> <p>14 sporting rifles owned by somebody who owns any is 3.1;</p> <p>15 correct?</p> <p>16 A Correct.</p> <p>17 Q And am I correct that the data you have</p> <p>18 about the number of modern sporting rifles owned in</p> <p>19 the United States overall is about 9 million?</p> <p>20 A I believe it was 8.2 from that time period,</p> <p>21 1990 through 2012, from Exhibit 6.</p> <p>22 Q Okay. And, so if I were going to try to</p>	179	<p>1 Q So for the category four-plus, you treated</p> <p>2 that as though everybody owned four?</p> <p>3 A Correct. Again, this was done to get a good</p> <p>4 estimation. I mean, you could carry it on to 100, but</p> <p>5 doing that wouldn't change the data all that much.</p> <p>6 Again, that 4.8 is the amount of individual owners</p> <p>7 between 1990 and 2012. Prior to that, as we have</p> <p>8 discussed in detail, there are additional owners.</p> <p>9 Q But you have no idea how many?</p> <p>10 A Correct.</p> <p>11 Q But I'm trying to figure out in order to get</p> <p>12 to the 4.8 million number, why wouldn't you have just</p> <p>13 divided the 8.2 by 3 -- by the 3.1?</p> <p>14 A I actually sent these two data sources off</p> <p>15 this chart here and the 8.2 to another one of our</p> <p>16 service providers, a Ph.D. in economics and research.</p> <p>17 I said -- again, I like to double-check things -- how</p> <p>18 would you do this? And that's the method that she</p> <p>19 used.</p> <p>20 Q She said the best way to do this</p> <p>21 scientifically is to ignore the plus sign next to the</p> <p>22 four and just treat that as though everybody in that</p>
178	<p>1 figure out how many individuals owned modern sporting</p> <p>2 rifles, would I just take the 8.2 and divide it by</p> <p>3 3.1?</p> <p>4 A I don't know. Would you? The way we had</p> <p>5 done it -- I don't know how you would do it, but the</p> <p>6 way we had done it is combine the two data sources.</p> <p>7 So, as you referenced on page 13, there is a chart</p> <p>8 that says number of MSRs owned. When looking at the</p> <p>9 2013 data, 35 percent of individuals said that they</p> <p>10 own one.</p> <p>11 So, if you were to say 8.2 million total</p> <p>12 times 35 percent, you get a number. Then you can do</p> <p>13 8.2 million times 25 percent of the people that own</p> <p>14 two, divide by 2, and add that number, then, to the</p> <p>15 first you got.</p> <p>16 Similarly, with three and four, 8.2</p> <p>17 multiplied by the 14 percent that said they owned</p> <p>18 three, divide it by 3 and get a number. Then with</p> <p>19 number four there, it's 8.2 times the remaining 27</p> <p>20 percent, get a number and add that to the others. I</p> <p>21 believe they comes out to about 4.8 million</p> <p>22 individuals that own it.</p>	180	<p>1 category owned only four?</p> <p>2 A She made reference to it as you continue on.</p> <p>3 She didn't say it's the best way, but she said -- I</p> <p>4 had asked her for a decent estimate, not down to the</p> <p>5 exact one. We're starting off with an estimate here</p> <p>6 and using survey data here to give to a third party.</p> <p>7 So I'm very comfortable with the 4.8.</p> <p>8 Q But, if you had done the calculations all of</p> <p>9 the way out, four, five, six, and beyond, and done</p> <p>10 them all of the way to whatever the biggest number of</p> <p>11 MSRs any one person owns is, wouldn't the number you</p> <p>12 get at the end of that process be exactly the same as</p> <p>13 dividing 8.2 million by 3.1?</p> <p>14 A I don't know. I haven't done it.</p> <p>15 Q You gave a deposition about three and half</p> <p>16 months ago in the Cook County case; is that right?</p> <p>17 A Correct.</p> <p>18 Q Did this conversation you had with the Ph.D.</p> <p>19 occur in between that deposition and this one?</p> <p>20 A Yeah. I believe it came after.</p> <p>21 Q Because back then you thought -- you</p> <p>22 calculated the number of individuals at 2.5 million;</p>

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1 right?

2 **A I believe at least 2.5 million, and I**

3 **probably did very quick math on the spot. I didn't**

4 **have anything to it. Again, I love to double-check**

5 **myself. So who better than somebody who's got 20**

6 **years and a Ph.D. to help me understand things? And I**

7 **put my faith in those providers.**

8 Q And that person told you that the way to get

9 it from the number of 8.2 million total owned to the

10 number of individuals who own them was not to just

11 divide it by the average number owned, but to go

12 separately by each category; right?

13 **A Yeah. This is the way she did it. I think**

14 **it's relatively simple. I understand it, but it seems**

15 **like you have a different method.**

16 Q Who was that Ph.D.?

17 **A Laura Kippin or Kippen.**

18 Q Is she affiliated with a university?

19 **A She graduated from, I believe, Ohio State**

20 **University.**

21 Q For whom does she work now?

22 **A InfoManiacs, one word, capital M.**

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1 Q If you turn to the next page, page 14, of

2 the report, I just want to make sure I understand this

3 information. Here the question is asking people when

4 they purchased or obtained their first modern sporting

5 rifle.

6 If I look at the numbers in 2013, I assume

7 that's only collecting, say, for the first four months

8 of 2013 based on when the survey was done.

9 **A We conducted it April or May, so the tail**

10 **end would be May. Yeah. I'd have to confirm with the**

11 **exact terminology of the questionnaire. When did you**

12 **purchase your first MSR? 19 percent in 2013. Yeah.**

13 **That's what it appears to be. There may have been**

14 **terminology within that that said the last 12 months**

15 **or 2013. I'm not sure.**

16 **Again, this report was put together for our**

17 **member base, not to be, I guess, discussed. And,**

18 **within these purposes, I guess there are different**

19 **ways that it could have been done or maybe in a little**

20 **bit more detail to get exacts for your purposes. But,**

21 **the way we conducted it, we're comfortable providing**

22 **this report to our members. They can then combine**

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1 **that with the data that they have, for example, the**

2 **manufacturers of the product, and they know when their**

3 **sales are as well.**

4 Q So you're saying that 2013 may actually

5 include sales that happened before 2013?

6 **A I'll have to confirm with how that question**

7 **was posed, whether it was, you know, the last 12**

8 **months, since it was the beginning of 2013 when we**

9 **administered the survey, to clarify that.**

10 Q And, then, if it did include more than just

11 2013, would you expect 2012 to bleed into 2011 as

12 well?

13 **A I'd have to check before speculating too**

14 **much on that.**

15 Q If you assume that the numbers for 2013 were

16 actually only for calendar year 2013, then those sales

17 must have happened sometime in the first three to five

18 months of 2013; is that right?

19 **A Correct, because we administered the survey**

20 **April-May 2013.**

21 Q And 1 percent of the individuals who owned

22 four or more modern sporting rifles bought all four or

184

1 more of them in 2013; is that right?

2 **A Correct.**

3 Q And if you combine that 1 percent from

4 2013 and the 4 percent from 2012, 5 percent of all

5 modern sporting rifle owners who own four or more of

6 them bought them in the 15 to 17 months -- bought all

7 of them in the 15 to 17 months before this report --

8 or before this survey was taken; is that correct?

9 **A Correct; yes.**

10 Q There's data down below for the periods 1995

11 to 2000, as well as 2001 to 2005. Most of that

12 overlaps the period of the federal assault weapons

13 ban; is that right?

14 MR. PORTER: Object to the form of the

15 question, but you can answer if you can.

16 **A Sure. And, not having the federal assault**

17 **weapons ban time frames in front of me, I know it's in**

18 **that vicinity, but I don't have an exact date.**

19 BY MR. FADER:

20 Q But the federal assault weapons ban didn't

21 ban modern sporting rifles.

22 MR. PORTER: Object to the form of the