

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 22-cv-2680-NYW-SKC

ROCKY MOUNTAIN GUN OWNERS,
NATIONAL ASSOCIATION FOR GUN RIGHTS,
CHARLES BRADLEY WALKER,
BRYAN LAFONTE,
CRAIG WRIGHT,
GORDON MADONNA,
JAMES MICHAEL JONES, and
MARTIN CARTER KEHOE,

Plaintiffs,

v.

THE TOWN OF SUPERIOR,
CITY OF LOUISVILLE, COLORADO,
CITY OF BOULDER, COLORADO, and
BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY,

Defendants.

**DEFENDANTS' RESPONSE TO PLAINTIFFS' MOTION TO EXCLUDE
REVISED KLAREVAS DECLARATION**

Defendants respectfully submit this response to Plaintiffs' motion to exclude Dr. Klarevas's revised report (the "Motion to Exclude") filed with this court on October 29, 2023 (CM/ECF Dkt. No. 79).

Plaintiffs' motion completely mischaracterizes the revised report submitted by Dr. Klarevas. As explained in Dr. Klarevas's declaration (CM/ECF Dkt. No. 78-11 at 2-3) – and as emphasized to Plaintiffs prior to their filing of their motion – Dr. Klarevas's revised report made changes to only four paragraphs of his original report. One of those paragraphs was updated to include additional matters in which Dr. Klarevas testified. The other three paragraphs were updated to provide additional detail on his original report based on information that only became available after Dr.

Klarevas submitted his original report. The revised report does not alter any of Dr. Klarevas's opinions from his original report. Plaintiffs are therefore incorrect to say that Dr. Klarevas has attempted to repudiate portions of his original report – he has not.

Notwithstanding that, given the non-material changes to the revised report, and to avoid burdening the Court with needless disputes, Defendants will agree to withdraw Dr. Klarevas's revised report. Accordingly, Defendants request the Court (1) deny Plaintiffs' Motion to Exclude (CM/ECF Dkt. No. 79) as moot and (2) disregard the revised version of Dr. Klarevas's report that Defendants attached to their summary judgment motion (CM/ECF Dkt. No. 78-11 at 4-396) and instead consider only the original version of Dr. Klarevas's report, which Defendants also attached to their summary judgment motion (CM/ECF Dkt. No. 78-12 at 2-36).

Dated: November 3, 2023

Respectfully submitted,

By: /s/ Christopher P. Lynch

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CERTIFICATE OF SERVICE

I hereby certify that on November 3, 2023, I served a true and complete copy of the foregoing **DEFENDANT’S MOTION TO PARTIALLY STRIKE EXPERT REPORT AND PARTIALLY EXCLUDE TESTIMONY OF MARK PASSAMANECK**, upon all parties herein by e-filing with the CM/ECF system maintained by the court and/or email, addressed as follows:

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Dated: November 3, 2023

Respectfully submitted,

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