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September 18, 2020

VIA ECF and E-MAIL

Honorable Gerald Lebovits
Justice of the Supreme Court of New York
Supreme Court of New York
60 Centre Street
New York, NY 10013

Re: *People v. The National Rifle Association of America, Inc. et al*, Index No. 451625/2020

Dear Justice Lebovits:

I write on behalf of the Attorney General Letitia James, the plaintiff in the above-referenced action, to respond to Your Honor's email of September 15, 2020, disclosing that your law clerk, Mark H. Shawhan, was formerly employed as an Assistant Solicitor General in the Office of the New York Attorney General ("OAG"), Division of Appeals and Opinions.

We thank the Court for its voluntary disclosure and agree with the Court's conclusions that Mr. Shawhan's previous employment with the OAG does not constitute grounds for recusal. Mr. Shawhan had no role in the OAG investigation that preceded the pending action. We have undertaken an internal review and confirm that during his tenure at the OAG, Mr. Shawhan was not involved in any other matters involving any of the defendants in this action – the National Rifle Association of America, Inc., Wayne LaPierre, Wilson Philips, Joshua Powell or John Frazer. In addition, none of the OAG attorneys who have appeared in this action (Assistant Attorneys General James Sheehan, Charities Bureau Chief; Emily Stern, Co-Chief, Enforcement Section, Charities Bureau; Monica Connell, and William Wang), or the attorneys who were involved in the investigation preceding this action, worked directly with Mr. Shawhan during his tenure at the OAG.

In the same spirit of voluntary disclosure, we also write to inform the Court and Defendants that more than ten years ago Assistant Attorney General Monica Connell was one of the attorneys who represented the State defendants, including Your Honor, in an action entitled *Mitchell v. Fishbein*, Index No. 01-cv-2760-JGK-GWG (S.D.N.Y.). The action was against the Administrator of the Assigned Counsel Plan for the Appellate Division of the State of New York, First Department; the Chair of Departmental Screening of the Supreme Court Panel of the Assigned Counsel Plan for New York County; and seven individuals who served on the recertification committee of the assigned counsel plan. The plaintiff in that case was an attorney who challenged denial of recertification to be a member of the 18-B assigned counsel panel. The case was dismissed by stipulation and order in 2008. To the best of her knowledge, Ms. Connell has had no interaction with Your Honor since the case ended in 2008. This prior representation, not unusual in the context of suits against state court judges and personnel, is not a ground

for mandatory recusal under Judiciary Law § 14. We do not deem this to be a conflict or believe that it otherwise should be grounds for the Court's recusal. We, however, felt it prudent to bring this to the attention of the Court and the Defendants.

Respectfully,

/s/ Emily Stern

Emily Stern
Co-Chief, Enforcement Section
Assistant Attorney General

cc: Counsel of Record (via ECF and email)