



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
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DIVISION OF SOCIAL JUSTICE
CHARITIES BUREAU

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January 18, 2021

BY NYSCEF

Honorable Joel M. Cohen
Justice of the Supreme Court of the State of New York
Commercial Division, New York County
60 Centre Street
New York, NY 10007

Re: *People of the State of New York by Letitia James v. National Rifle Association of America, Inc. ("NRA"), Index No. 451625/2020*

Dear Justice Cohen:

We write on behalf of the plaintiff, the Attorney General of the State of New York, in response to the letter today from William Fleming, Esq., counsel for defendant John Frazer. We express our sincere condolences on the untimely passing of Mr. Fleming's co-counsel, Mr. Carl Liggio, due to complications of COVID-induced pneumonia. Due to the substantial passage of time since the Attorney General commenced this action, the pending matters before the Court and the continuing appearance of Gage, Spencer & Fleming LLP for Mr. Frazer, the Attorney General respectfully objects to Mr. Fleming's request for a 30-day adjournment of these proceedings. We believe that this case can proceed without unfair prejudice to Mr. Frazer.

After the Attorney General commenced this enforcement action in August 2020, the office granted each defendant a lengthy extension of time to respond to the complaint. On October 19th, the NRA, followed by defendants Wayne LaPierre and Mr. Frazer on October 30th, filed a series of motions to dismiss, stay or transfer this action. *See* NYSCEF Motion sequence nos. 1, 3 and 4). These parties then filed a second series of motions in November. *See* NYSCEF Motion sequence nos. 5, 6 and 7). These motions were fully briefed by December 24, 2020 and are ready for argument. To avoid any further delay and under the extenuating circumstances, the Attorney General has no objection if the Court elects to address these motions on the papers. Alternatively, the Attorney General is prepared for oral argument as scheduled on January 21 if the Court chooses to proceed. We expect that the NRA will be taking the lead at the argument. Mr. Frazer, in all material respects, adopted the NRA's arguments on these motions, *see* NYSCEF Dkt. Nos. 130, 171. His counsel, Mr. Fleming, was granted an adjournment on January 11 to prepare for the oral argument on January 21.

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Pursuant to the Court's January 15, 2021 direction, the Attorney General will submit a separate letter on January 20, 2021 which will set forth our position that the NRA's filing of a notice of suggestion of bankruptcy does not effectuate an automatic stay here as this enforcement action squarely falls in the exemption, pursuant to 11 U.S.C. §362(b)(4), for actions in furtherance of the government's police and regulatory power. For that reason, and because the NRA's bankruptcy filing also does not stay pending claims against the non-debtor individual defendants, this action should proceed. Absent a contrary order from this Court, the Attorney General intends to proceed with the meet and confer it has scheduled with all parties for Friday, January 22nd to discuss a schedule for discovery and other pretrial proceedings. The defendants have had ample time to prepare to discuss these topics and if Mr. Fleming is unable to participate, we request that one of his colleagues attend the meeting.

Respectfully,

/s/ Emily Stern

Emily Stern
Co-Chief, Charities Bureau,
Enforcement Section
Assistant Attorney General

cc: All Counsel of Record (via NYSCEF)