

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK, COMMERCIAL DIVISION**

**People Of The State Of New York, By
Letitia James, Attorney General Of
The State Of New York,**

Plaintiff,

v.

**The National Rifle Association Of America, Inc.,
Wayne LaPierre, Wilson Phillips, John Frazer,
and Joshua Powell,**

Defendants.

Index No. 451625/2020

**AFFIDAVIT OF MARIO AGUIRRE
IN SUPPORT OF MOTION TO INTERVENE**

**STATE OF ALABAMA
SHELBY COUNTY**

MARIO AGUIRRE, being duly sworn, deposes and says:

1. My name is Mario Aguirre. I make this affidavit in support of my Motion to Intervene in this action. I am a resident of the State of Alabama; over the age of eighteen years; have never been convicted of a felony; and I am fully competent to make this affidavit and otherwise give testimony in the courts of New York. I make this affidavit on personal knowledge unless otherwise noted.

2. I am a Life Member of the National Rifle Association ("NRA"). I am a member of an NRA-affiliated shooting association in the Birmingham, Alabama metropolitan area and currently serve as an officer and match director for various competition matches that are held at the association's NRA-certified shooting range. Besides providing a safe place for private citizens to shoot, the association also makes its facilities available for training by local police

departments and several Federal agencies including the FBI, ATF, U.S. Marshals, and Homeland Security.

3. I am requesting intervention in this action for the following reasons:

a) To seek the removal of the individual defendants as officers and executives of the NRA and to assist in recovering for the benefit of the NRA and its members any and all misspent NRA funds if the Attorney General's allegations against the individual defendants are proven.

b) To oppose the extreme, unnecessary, unlawful and improper remedy of dissolution demanded by the Attorney General.

c) To protect and defend the interests of myself and all other NRA members in the NRA as an organization, and to oppose any remedy in this action that would divest the NRA's reported 5.5 million members of their similar interests in the NRA's assets and organizational value, whether by dissolution or otherwise.

d) To protect my rights and those of all NRA members to freedom of association and speech by membership in the NRA under the First Amendment of the U.S. Constitution and similar provisions of the New York State constitution.

e) To call this Court's attention to significant conflicts of interest by the Brewer firm now representing the NRA in this action; to seek the disqualification of this firm from further representation of the NRA here; and to seek truly independent counsel for the NRA in this case.

f) To request that the Court require the Attorney General to immediately provide a comprehensive notice of this case to all NRA members by mail or email so that each member may be informed of this case now, follow its progress, and intervene or otherwise take action to lodge objections with the Court.

4. I have reviewed the Attorney General's complaint in this case. Although I am not a lawyer and not familiar with New York law, I understand from the complaint that the New York Attorney General alleges serious financial and tax reporting improprieties by the individual defendants in their capacities as NRA officers and executives. I also understand that the Attorney General alleges the individual defendants breached their fiduciary duties to the NRA and its members, and did so solely for their own personal benefit. I further understand from the complaint that the Attorney General alleges that the NRA Board of Directors has failed to provide any meaningful oversight or accountability of the individual defendants, and has been a "rubber stamp" for Mr. LaPierre in his complete control of the NRA. Based on my years of experience and familiarity with the NRA, I believe these allegations to be true.

5. I further understand that the Attorney General's allegations included use of NRA money for personal expenses by Wayne LaPierre, the NRA's Executive Vice President and CEO as well as his closest assistants John Frazer, Wilson "Woody" Phillips, and Joshua Powell. Additionally I understand from the complaint that there may be other payments to NRA officers and/or directors as well as third parties which were not properly authorized or audited and which may be excessive.

6. I have seen a copy of a letter from the NRA's former president and first vice-president, Oliver North and Richard Childress, suggesting that the NRA's outside counsel William Brewer and his firm, Brewer Attorneys & Counselors, were billing the NRA excessive amounts of legal fees that were unilaterally approved by Wayne LaPierre without proper audit or oversight by the NRA Board or other NRA personnel. Specifically, this letter detailed the Brewer firm's legal bills to NRA that had averaged "\$97,787 per day, seven days a week, every day of every month" for the first quarter of 2019. This letter also detailed previous requests for copies of Brewer's

legal bills and called for an independent audit and financial review, which were apparently refused by the NRA's top officers.

7. In addition to the breaches of duty alleged by the Attorney General I am extremely concerned about significant conflicts of interest the Brewer firm has in representing the NRA as an entity in this case. I am aware that the Brewer firm has previously represented both the NRA as a corporate entity and Wayne LaPierre individually in two recent cases involving allegations of fraud and breach of fiduciary duty similar to those in this action. Although I am not a lawyer, I believe anyone can understand that if the Attorney General's claims correct and that Mr. LaPierre has misspent NRA money for his own benefit, then the NRA obviously has the right to recover all such funds from LaPierre. However, in that event the Brewer firm would necessarily have to make a claim on behalf of the NRA against LaPierre, their former client.

8. I further understand that the Attorney General's complaint alleges that Mr. LaPierre "effectively dominates and controls the Board of Directors as a whole." I believe this allegation to be true, and that as a result the NRA can have no independence as a corporate entity in this case because Mr. LaPierre controls whatever claims the NRA might assert against himself. Even if Mr. LaPierre gave up any control over the NRA's litigation, the Brewer firm will nevertheless have to sue LaPierre as a former client in order to pursue the NRA's claims against LaPierre.

9. The Attorney General's complaint alleges that Brewer's legal bills were not properly audited, but makes no demand for any review of these charges or any recovery of any fees found to be unreasonable. Even a non-lawyer can understand that if Brewer's fees are determined to be excessive then Brewer firm is not going to sue itself to recover those fees for the NRA.

10. I disagree strongly with the Attorney General's proposed remedy of dissolution. Dissolving the NRA is not in the best interests of either the NRA as a corporate entity or its

reported 5.5 million ordinary rank-and-file members who support the NRA and its mission, and who had nothing to do with the actions of the individual defendants alleged in this case.

11. Dissolution would wrongfully divest the NRA's assets and organizational value from its membership – whose dues and contributions built the NRA over nearly 150 years – and distribute those assets to some other persons or entities. This would destroy the ongoing safety, education, training, certification and associational benefits that the NRA now provides and will continue to provide to its membership and that the public.

12. For example, according to its website the NRA has certified more than 125,000 instructors, 8,000 coaches and 2,200 training counselors who provide competent instruction in the safe and proper use of firearms across the United States to millions of Americans. Other examples of ongoing member and public benefit programs on NRA's website include:

- Eddie Eagle GunSafe program. This is a gun-accident prevention program that helps parents, law enforcement, community groups and educators navigate this crucial children's safety topic. It teaches Pre-K through 4th graders what to do if they should ever find an unsecured firearm with friendly, age-appropriate lessons that have proven, real-world success, and has taught over 32 million children how to stay safe if they ever find a gun. This program also provides grant funding for schools, law enforcement agencies, hospitals, daycare centers and libraries interested in bringing Eddie Eagle to children in the area.
- Women on Target Instructional Shooting Clinics. This teaches firearm safety and the fundamentals of marksmanship in a supportive, woman-friendly environment. These instructional clinics are available only to women, to provide a safe and friendly venue to learn these critical skills from, and with, other women.
- School Shield. This is a school security program is committed to addressing the many facets of school security, including best practices in security infrastructure, technology, personnel, training, and policy. Through this program the NRA seeks to engage communities and empower leaders to help make our schools more secure.
- Refuse To Be A Victim. This program teaches techniques to avoid dangerous situations and criminal confrontation. Seminars are held across the nation and are open to individuals of all ages. Thousands of federal, state and local law enforcement officials and civilians across the United States utilize this popular program in their crime prevention and community policing initiatives. More than 120,000 people have

benefited from these seminars.

- Instruction and Certification. Approximately 1 million people attending NRA training courses annually. NRA approved training courses include gunsmithing schools as well as courses to become certified Instructors, Counselors, Coaches, and Range Safety Officers.

13. The Attorney General's attack on the NRA as an entity, and her demand for dissolution instead of limiting this action to claims for wrongful acts of the individual defendants, is a direct attack on the rights of all NRA members to freedom of association and of speech under the First Amendment of the U.S. Constitution and similar provisions of the New York State constitution.

14. Therefore I am requesting intervention in this action because it is evident to me that neither the Attorney General nor the individual defendants will protect the best interests of the NRA as an entity and its membership. In other words, no present party to this action will adequately represent and protect the interests of the NRA as an entity, or the interests of its rank-and-file members, because a) the Attorney General is seeking to destroy the NRA; b) the individual defendants are alleged to have put their own personal interests above those of the NRA and its members; and c) the NRA as an entity has no independent ability to defend its interests because the individual defendants and the Brewer firm control its conduct of this case.

15. For all these reasons I am filing through counsel a Motion to Intervene in this action as of right, or alternatively, by permission.


MARIO AGUIRRE

STATE OF ALABAMA
SHELBY COUNTY

The foregoing affidavit was sworn to and subscribed before me by MARIO AGUIRRE on
this 8th day of January, 2021.

Zared Rice
Notary Public



My Commission Expires:

5/15/24