

Exhibit D

Court's decision in
NRA v. James, Index No. 158019/2019
(Sup. Ct. N.Y. Cnty.)

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: MELISSA A. CRANE
JusticePART 15NATIONAL RIFLE ASSOCIATION OF AMERICA,

Petitioner,

- v -

INDEX NO.	158019/2019
MOTION DATE	_____
MOTION SEQ. NO.	001
MOTION CAL. NO.	_____

LETITIA JAMES, IN HER OFFICAL CAPACITY
AS THE ATTORNEY GENERAL OF THE STATE
OF NEW YORK,

Respondent.

The following papers, numbered _ to _ were read on this motion to/for _____.

Notice of Motion/Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

CROSS-MOTION: YES NO

After oral argument, and for the reasons stated on the record of 8-19-2019, the court denies the application of the NRA to sit in on the investigatory deposition of Mr. North. As explained on the record, the balance of the equities does not favor the NRA. The Attorney General has reiterated time and again that they are not seeking privileged information and just now represented that If Mr. North starts to reveal privileged information, they are going to “cut him off.” Moreover, Mr. North has his own counsel who can protect the privilege, and is likely to protect the privilege given that otherwise Mr. North could be vulnerable to a claim for breach of fiduciary duty.

On the other side, the equities favor the AG. Having the NRA or its Board sit in on an investigatory deposition by law enforcement could have the serious consequence of compromising the integrity of that investigation, particularly given the seemingly acrimonious

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE
FOR THE FOLLOWING
REASON(S):

relationship between Mr. North and the NRA Board. For the purposes of this investigation, the NRA and its Board are one and the same. Their interests are united.

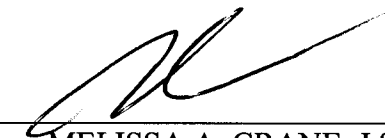
In reaching this conclusion, the court notes that Mr. North and his counsel appear to be operating in good faith as they gave notice to the NRA of the subpoena; and filed at least some documents in redacted form in a case in the Commercial Division. Although some documents were filed in non-redacted form, the court notes that it has been at least a month and there has been no motion to seal from the NRA. Similarly, there was no effort made to have the court review *in camera* the document that is completely redacted and attached as an exhibit to the NRA's papers. Consequently, the court is unable to assess the depth, if any, to which the privilege would have been compromised.

It would also likely compromise the investigation were the transcript to be handed over to the NRA during the investigation. I am not sure of the harm once the investigation is over, but that issue is not ripe yet. The court will retain jurisdiction, should that issue ever arise.

Accordingly, it is

ORDERED that the court denies the application and dismisses the petition.

DATED: 8-19, 2019


MELISSA A. CRANE, J.S.C

Check one: ☒ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION
Check if appropriate: MOTION IS: ☐ GRANTED ☐ DENIED ☐ GRANTED IN PART ☐ OTHER
Check if appropriate: ☐ DO NOT POST ☐ REFERENCE ☐ SETTLE ORDER ☐ SUBMIT ORDER
☐ FIDUCIARY APPOINTMENT