

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART THREE

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PEOPLE OF THE STATE OF NEW YORK, BY :
LETITIA JAMES, ATTORNEY GENERAL OF :
THE STATE OF NEW YORK, : Index No. 451625/2020

Plaintiff, : Hon. Joel M. Cohen

v. :
:

THE NATIONAL RIFLE ASSOCIATION OF :
AMERICA, INC., WAYNE LAPIERRE, :
WILSON PHILLIPS, JOHN FRAZER, and :
JOSHUA POWELL, :

Defendants. :
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**WAYNE LAPIERRE’S MEMORANDUM OF LAW
IN OPPOSITION TO MOTION TO INTERVENE**

Defendant Wayne LaPierre (“LaPierre”), by and through his attorney, P. Kent Correll, Esq., of Correll Law Group, respectfully submits this memorandum of law in opposition to the motion to intervene (“Motion”) filed by proposed intervenors Francis Tait and Mario Aguirre (“Movants”).

I.

PRELIMINARY STATEMENT

LaPierre joins Defendant the National Rifle Association of America and Defendant John Frazer in opposing the Motion, based on the facts, evidence and legal argument set forth in their opposition papers, which LaPierre hereby adopts and incorporates by reference, and respectfully submits that, for the reasons stated in those papers, the Court should deny the Motion. In addition, LaPierre presents the following facts bearing on the issue previously raised by this Court—*i.e.*, whether Movants have standing to participate in this matter—and on the issue of

whether the Motion is timely.

II.

FACTS

This action was commenced on August 6, 2020.¹ An amended complaint was filed on August 10, 2020.² On September 10, 2020, LaPierre selected Correll Law Group (“CLG”) to represent him in this matter and any related matters and, on September 30, 2020, P. Kent Correll, Esq. (“Correll”), the principal of CLG, filed a notice of appearance on behalf of LaPierre in this action.³ CLG has represented LaPierre in this action ever since, and no other attorney or law firm has appeared for LaPierre in this action.

On October 30, 2020, on behalf of LaPierre, CLG filed a motion to dismiss the Complaint on the grounds, *inter alia*, that another action was pending in the United States District Court for the Northern District of New York between the “same parties” and, substantively, the “same cause of action” and, in the alternative, to stay this action pending resolution of related federal cases.⁴

On November 12, 2020, on behalf of LaPierre, pursuant to CPLR 510(1) and 511(c), CLG moved to change the place of trial and for a stay of proceedings.⁵

That same day, this Court issued a Court Notice (“Notice”) informing the parties that it was in receipt of a letter from an attorney purporting to represent “several members” of the National Rifle Association of America (“NRA”), attaching a copy of the letter, and requesting that the parties file letters setting forth their positions, if any, with respect to the issues raised in

¹ See NYSCEF Doc. No. 1 (Verified Complaint).

² See NYSCEF Doc. No. 11 (Verified Complaint (Amended)).

³ See NYSCEF Doc. No. 36.

⁴ See NYSCEF Doc. No. 114.

⁵ See NYSCEF Doc. No. 156.

the letter.⁶ The letter was signed by George C. Douglas, Jr. (“Douglas”), who is apparently an attorney practicing law in Alabama and stated, among other things, that he was writing “to call the Court’s attention to two threshold matters that should be addressed before any of the pending motions”—namely, that (1) the New York Attorney General has “failed to comply with N-PCL § 1104” and (2) the “NRA’s present counsel is conflicted and should be disqualified before any further proceedings take place”.⁷

On November 19, 2020, in accordance with the Court’s request, Correll submitted a letter on behalf of LaPierre stating LaPierre’s position with respect to the issues raised in the Douglas Letter.⁸ In the letter, Correll explained that Douglas had misstated facts regarding LaPierre’s prior attorney-client relationship with the NRA’s attorneys in this action, Brewer, Attorneys and Counselors (“BAC”).⁹ Correll stated that LaPierre was formerly represented, but was no longer represented by BAC in the *Ackerman* and *Dell’Aquila* matters.¹⁰ Correll further related that LaPierre had asked BAC to represent him in those lawsuits, with full foreknowledge that BAC would prioritize and continue its representation of the NRA if any conflict arose.¹¹ Correll further stated that LaPierre had executed conflict waivers to preclude and foreclose any potential challenges to that representation.¹²

Together with his letter, Correll submitted an affidavit from LaPierre, sworn to on

⁶ See Affirmation of P. Kent Correll, Esq. dated July 9, 2021 (hereinafter cited as Correll Affm.), Exhibit 1 (Court Notice dated November 12, 2020 (NYSCEF Doc. No. 155) and attached Letter from George C. Douglas, Jr. to Hon. Joel M. Cohen dated November 11, 2020 (NYSCEF Doc. No. 155-1) (hereinafter cited as “Douglas Letter”)).

⁷ See Correll Affm., Exhibit 1 (Douglas Letter (NYSCEF Doc. No. 155-1)) at 1 and 3.

⁸ See Correll Affm., Exhibit 2 (Letter from P. Kent Correll, Esq. to Hon. Joel M. Cohen dated November 19, 2020 (NYSCEF Doc. No. 174) (“Correll Letter”).

⁹ *Id.*, at 1.

¹⁰ *Id.*

¹¹ *Id.*, at 2.

¹² *Id.* As the docket sheet in this action shows, no one from BAC has ever appeared for LaPierre in this action.

November 19, 2020.¹³ In his Affidavit, LaPierre stated that the NRA retained BAC to defend the NRA in this proceeding brought by the New York Attorney General.¹⁴ LaPierre further attested that it was mutually and clearly understood that, in the event that a colorable conflict arose between his interests and those of the NRA, BAC would terminate its representation of him and continue to represent the NRA.¹⁵ LaPierre further stated that his paramount concern has always been that BAC remain as counsel to the NRA, especially in connection with any disputes involving the New York State Office of the Attorney General.¹⁶

LaPierre further attested that, on November 7, 2019, he executed an engagement letter formalizing BAC's representation of him in the Ackerman case and that that engagement letter provided that "in the event that a conflict of interest arises in the future between the NRA, on the one hand, and you, on the other, the Firm shall continue to represent the NRA and, therefore, will terminate the attorney-client relationship and its engagement with you."¹⁷ LaPierre acknowledged that, in such circumstances, he would need to retain separate counsel and he waived any right to move to disqualify BAC on any matter based on BAC's prior representation of LaPierre.¹⁸

LaPierre also noted that he had been represented by BAC during the NYAG's investigation during June 2020, when the NYAG sought his testimony.¹⁹ LaPierre again agreed that if the NYAG brought claims giving rise to a potential conflict between the NRA's interests and his own, BAC could terminate its representation of him and continue to represent the NRA.²⁰

¹³ See Correll Affm., Exhibit 3 (Affidavit of Wayne LaPierre sworn to on November 19, 2020 (NYSCEF Doc. No. 175)) ("LaPierre Affidavit").

¹⁴ *Id.*, at ¶ 4.

¹⁵ *Id.*, at ¶ 5.

¹⁶ *Id.*

¹⁷ *Id.*, at ¶ 6.

¹⁸ *Id.*

¹⁹ *Id.*, at ¶ 8.

²⁰ *Id.*

LaPierre attested that after the NYAG commenced its lawsuit, LaPierre retained Correll to represent him in that lawsuit and terminated his attorney-client relationship with BAC.²¹

Finally, LaPierre acknowledged there may be claims and defenses available to the NRA in this proceeding which situate the NRA adversely to him individually, but that BAC would do whatever was in the best interest of the NRA as determined by the Special Litigation Committee of the NRA Board of Directors.²²

On November 23, 2020, this Court's Principal Court Attorney sent an email to Douglas and all counsel of record stating:

The judge posted your prior letter in a Court Notice to determine whether it raised any issues that the parties wished to address. In order to be able to file papers for consideration by the Court, *you* (with New York-admitted counsel) *will need to establish that your clients have standing to participate in this matter*. The Court cannot serve as a conduit for your filings.²³

On January 15, 2021, the NRA filed a bankruptcy petition in the U.S. Bankruptcy Court for the Northern District of Texas.

On June 17, 2021, more than three years after the Ackerman litigation began, more than two years after the Dell' Aquila action had been commenced, and more than ten months after this action was commenced, Movants filed a motion to intervene in this action.

III.

ARGUMENT

LaPierre adopts and incorporates by reference the argument set forth in the NRA's and Frazer's opposition papers.

²¹ *Id.*, at ¶ 9.

²² *Id.*, at ¶ 11.

²³ See Correll Affm., Exhibit 4 (Email from Kartik Naram to All Counsel of Record dated November 23, 2020) (emphasis added).

IV.**CONCLUSION**

Based on the facts and arguments set forth in the NRA's and Frazer's opposition papers, and the additional facts set forth herein, the Motion to Intervene should be denied.

Dated: New York, New York
July 9, 2021

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CERTIFICATE OF COMPLIANCE

I, P. Kent Correll, an attorney duly admitted to practice law before the courts of the State of New York, certify that the Wayne LaPierre's Memorandum of Law in Opposition to Motion to Intervene (Mot. Seq. 011) complies with the word count limit set forth in Rule 17 of the Commercial Division of the Supreme Court (22 NYCRR 202.70(g)) because the memorandum of law contains 1,417 words, excluding the parts exempted by Rule 17. In preparing this certification, I have relied on the word count of the word-processing system used to prepare this memorandum of law and affirmation.

Dated: July 9, 2021
New York, New York

/s/ P. Kent Correll

P. Kent Correll, Esq.