

B R E W E R
ATTORNEYS & COUNSELORS

October 22, 2021

BY NYSCEF

Hon. Joel M. Cohen
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 v National Rifle Association of America, et al.,*
Index No. 451625/2020

Dear Justice Cohen:

We represent the National Rifle Association of America (“NRA”) in the above-referenced action. We write regarding the notice received from the Court by e-mail on October 20, 2021, notifying the parties that a hearing has been scheduled for December 10, 2021, for Motion Sequence No. 13 (NYSCEF No. 264-279) (“Motion Sequence No. 13”). Motion Sequence No. 13 was the New York State Attorney General’s (“NYAG”) Motion to Dismiss, filed on June 24, 2021, which addressed the original Counterclaims filed by the NRA on February 23, 2021, contained in the NRA’s original Verified Answer (NYSCEF No. 228).

Subsequent to the NYAG’s filing Motion Sequence No. 13, the NRA and the NYAG entered into a Stipulation, dated July 2, 2021 (the “July Stipulation”) (NYSCEF No. 288, a copy of which is enclosed herewith), providing that the NRA would *either* (a) file its response to the motion to dismiss then filed by the NYAG, *or* (b) file and serve an amended Answer and Counterclaims, as of right. The July Stipulation further provided that “[d]iscovery on the counterclaims shall be stayed pending resolution of the motion to dismiss the counterclaims *or any subsequent motion to dismiss if the NRA amends its counterclaims*, subject to any subsequent order of the Court.” (*Id.*). The NRA filed its Amended Verified Answer and Counterclaims on July 20, 2021 (the “Amended Counterclaims”) (NYSCEF No. 325). There were no further filings by either side in respect of Motion Sequence No. 13.

It is clear from the terms of the July Stipulation and the CPLR, that, once the NRA filed its Amended Counterclaims, the NYAG was required to reply to the Amended Counterclaims under CPLR 3025(d), or move to dismiss the Amended Counterclaims. The NYAG did neither. Instead, on consent of all parties, the NYAG filed her Amended Complaint on August 16, 2021 (NYSCEF No. 333). The NRA moved to dismiss the Amended Complaint on September 15, 2021; that motion has not yet been fully submitted (NYSCEF No. 363-371).

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Because Motion Sequence No. 13 was superseded by the NRA's filing its Amended Counterclaims and by the terms of the parties' July Stipulation, Motion Sequence No. 13 is no longer a live motion. Accordingly, the NRA respectfully requests that the hearing scheduled for December 10, 2021 on Motion Sequence No. 13 be cancelled.

We thank the Court for its time and attention to this matter.

Respectfully,

/s/William A. Brewer III

cc: All Counsel of Record

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

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

STIPULATION

IT IS HEREBY STIPULATED and agreed by and between the undersigned counsel for the respective parties, that:

1. The return date of the Motion to Dismiss, dated June 24, 2021 (Motion #012) (the “Motion”), filed by the Attorney General of the State of New York (the “NYAG”) in the above-captioned proceeding, is adjourned from July 12, 2021 to July 30, 2021.
2. The National Rifle Association of America (the “NRA”) shall, on or before July 20, 2021: (a) file its response to the Motion, or (b) file and serve an amended Answer and Counterclaims and/or Cross-Claims, as of right.
3. NYAG’s reply papers in support of its Motion, if any, shall be electronically filed with the Court on or before July 29, 2021.
4. Discovery on the counterclaims shall be stayed pending resolution of the Motion to dismiss the counterclaims or any subsequent motion to dismiss if the NRA amends its counterclaims, subject to any subsequent order of the Court.

IT IS FURTHER AGREED AND STIPULATED that this stipulation can be executed in counterparts and by using electronic, scanned or telefaxed signatures, with the same effect as original signatures.

IN WITNESS WHEREOF, this Stipulation is executed by counsel for the Parties hereto on July 2, 2021.

For Plaintiff-Counterclaim-Defendant

ATTORNEY GENERAL
OF THE STATE OF NEW YORK

By: /s/ Monica Connell
Monica Connell
Emily Stern
28 Liberty Street
New York, New York 10005
Tel. (212) 416-8401

For Defendant/Counterclaim Plaintiff
The National Rifle Association of America

BREWER, ATTORNEYS AND COUNSELORS

By: /s/ Sarah B. Rogers
Sarah B. Rogers
Mordecai Geisler
Brewer, Attorneys and Counselors
750 Lexington Avenue, 14th Floor
New York, New York 10005
Tel. (212) 527-2587