

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, WAYNE LAPIERRE,
WILSON PHILLIPS, JOHN FRAZER, and
JOSHUA POWELL,

Defendants.

Index No. 451625/2020
(Cohen, J.)

**PLAINTIFF'S PARTIAL OPPOSITION TO
THE NRA'S MOTION FOR A SEALING ORDER**

LETITIA JAMES
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Stephen C. Thompson
Assistant Attorney General

ARGUMENT

Plaintiff People of the State of New York, by Letitia James, Attorney General of the State of New York, respectfully submits this memorandum of law in partial opposition to the motion of Defendant National Rifle Association of America (“NRA”) for a sealing order pertaining to one document filed by Plaintiff. NYSCEF 1125 et seq.

The document that the NRA has moved to seal is Exhibit D to the Affirmation of Monica Connell, *see* NYSCEF 1087, which Plaintiff submitted in opposition to the NRA’s Motion Sequence Nos. 37 and 41, seeking review of certain rulings of the Special Master.¹ As described in the NRA’s motion papers, Exhibit D is a communication between the NRA and its outside auditor and tax preparer, Aronson LLC (“Aronson”). *See* NYSECF 1126 at 2. The NRA sought to withhold the communication as privileged, and this Court affirmed a ruling of the Special Master finding that the communication was not privileged and subject to disclosure. NYSECF 843 & 847. Plaintiff solely agreed to treat Exhibit D as “Highly Confidential” pending the NRA appeal of this Court’s ruling. Plaintiff does not object to the NRA’s motion to the extent sealing is conditioned on the NRA timely perfecting and succeeding on its appeal from the discoverability of documents shared Aronson. *See* NYSCEF 888 at 7-8.

However, should the NRA fail on its appeal, the document should be unsealed. As this Court has held, “because confidentiality is the exception and not the rule, the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public

¹ This is the only document that the NRA contends should be sealed among the 22 exhibits that the Plaintiff submitted in opposition to the NRA’s two motions. Since neither the NRA nor any other party has timely moved to seal any of the other exhibits submitted by Plaintiff in connection with Motion Sequence Nos. 37 and 41 Plaintiff will re-file the uncontested documents in full. *See* NYSCEF 869 at ¶ 14.

access.” NYSCEF 756 at 5 (quoting *Maxim, Inc. v. Feifer*, 145 AD3d 516, 517 (1st Dep’t 2016)) (internal quotation marks omitted). Here, the only bases the NRA alleges for sealing are that the document is privileged and non-discoverable, and that Plaintiff agreed to treat the document as highly confidential pending the NRA’s appeals. NYSCEF 1126 at 10-12. Therefore, if the discoverability of the document is upheld in Plaintiff’s favor, there will be no justification for its continued sealing.

Dated: February 1, 2023
New York, New York

LETITIA JAMES
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/s/ Stephen Thompson
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Of Counsel

Attorney Certification Pursuant to Commercial Division Rule 17

I, Stephen Thompson, an attorney duly admitted to practice law before the courts of the State of New York, certify that the Memorandum of Law in Partial Opposition to the NRA's Motion for a Sealing Order 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 410 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: February 1, 2023
New York, New York

/s/ Stephen Thompson
Stephen Thompson