

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

Motion Sequence No. \_\_

**STATEMENT OF  
UNDISPUTED MATERIAL  
FACTS IN SUPPORT OF  
PLAINTIFF'S MOTION TO  
DISMISS CERTAIN OF THE  
DEFENDANTS'  
AFFIRMATIVE DEFENSES**

Plaintiff, the People of the State of New York ("Plaintiff"), by and through the Office of the Attorney General Letitia James ("OAG"), respectfully submits the following Statement of Undisputed Material Facts pursuant to New York Civil Practice Law and Rules ("CPLR") § 3212, 22 N.Y.C.R.R. § 202.8-g, and Commercial Division Rule 19-a:

1. On August 6, 2020, Plaintiff commenced this action by service of summons and complaint. (NYSCEF 1.)
2. On February 23, 2021, Defendant National Rifle Association of America ("NRA") answered, asserting counterclaims arising out of, *inter alia*, purported bias, unconstitutional selective prosecution and retaliation by the Attorney General in violation of its federal and state constitutional rights of free speech and free association (the "Counterclaims"). (NYSCEF 230.)
3. On June 24, 2021, Plaintiff moved to dismiss the Counterclaims. (NYSCEF 264.)
4. On July 20, 2021, Defendant National Rifle Association of America amended its answer, and re-asserted its Counterclaims. (NYSCEF 325.)

5. On May 2, 2022, Plaintiff filed the operative Second Amended Verified Complaint (the “Operative Complaint”). (NYSCEF 646.)

6. On June 6, 2022, Defendants National Rifle Association of America, Wayne LaPierre and John Frazer moved to dismiss the Operative Complaint, asserting, *inter alia*, that the Operative Complaint improperly sought to extraterritorially apply certain New York charities statutes. (NYSCEF 684–705.)

7. The same day, Defendants Joshua Powell and Wilson Phillips answered the Operative Complaint, asserting the affirmative defenses therein. (NYSCEF 681–682.)

8. On June 10, 2022, this Court issued a Decision and Order dismissing the Counterclaims on the grounds stated therein and finding that “the NRA’s factual allegations failed to support any viable legal claims that the Attorney General’s investigation was unconstitutionally retaliatory or selective.” (NYSCEF 706 at 2.)

9. On October 21, 2022, Defendants John Frazer and Wayne LaPierre answered the Operative Complaint, asserting the affirmative defenses therein. (NYSCEF 864–865.)

10. On November 2, 2022, Defendant National Rifle Association of America answered the Operative Complaint, asserting the affirmative defenses therein. (NYSCEF 889.)

11. On September 29, 2022, this Court issued a Decision and Order denying Defendants’ motion to dismiss the Operative Complaint on the grounds asserted therein, including rejecting Defendants’ extraterritoriality argument. (NYSCEF 844–847.)

Dated: February 10, 2023  
New York, New York

LETITIA JAMES  
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