

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK – COMMERCIAL DIVISION

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PEOPLE OF THE STATE OF NEW YORK,	§	
BY LETITIA JAMES, ATTORNEY GENERAL	§	Index No. 451625/2020
OF THE STATE OF NEW YORK,	§	Hon. Joel M. Cohen
	§	
Plaintiff,	§	Motion Sequence No. _____
	§	
v.	§	
	§	
THE NATIONAL RIFLE ASSOCIATION OF	§	<b><u>AFFIRMATION IN SUPPORT</u></b>
AMERICA, WAYNE LAPIERRE, WILSON	§	<b><u>OF MOTION TO PRECLUDE</u></b>
PHILLIPS, JOHN FRAZER, and JOSHUA	§	<b><u>EVIDENCE PURSUANT TO</u></b>
POWELL,	§	<b><u>CPLR 3126</u></b>
	§	
Defendants.	§	

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**AFFIRMATION IN SUPPORT OF**  
**DEFENDANT THE NATIONAL RIFLE ASSOCIATION OF AMERICA’S**  
**MOTION TO PRECLUDE EVIDENCE PURSUANT TO CPLR 3126**

I, Christopher T. Zona, an attorney duly admitted to practice law before the Courts of the State of New York, hereby affirm under penalty of perjury pursuant to CPLR 2106 as follows:

1. I am Counsel with the law firm Brewer, Attorneys & Counselors, counsel for Defendant the National Rifle Association of America (“NRA”).
2. I am familiar with the facts and circumstances set forth herein.
3. I submit this Affirmation in support of the NRA’s Motion To Preclude Evidence Pursuant To CPLR 3126 which seeks to preclude Plaintiff Attorney General of the State of New York (“NYAG”) from offering evidence at trial related to information that the NYAG has continued to refuse to disclose in response to the NRA’s properly propounded contention interrogatory requests, or, in the alternative, pursuant to CPLR 3124, compel the NYAG to provide full and complete responses to NRA Contention Interrogatories 1, 2, and 8.

4. Attached hereto as **Exhibit A** is a true and correct copy of “The National Rifle Association Of America’s Contention Interrogatories To Plaintiff,” dated October 19, 2022 (“NRA Contention Interrogatories”).

5. Attached hereto as **Exhibit B** is a true and correct copy of the “Responses And Objections Of Plaintiff The People Of The State Of New York To Defendant NRA’s Contention Interrogatories,” dated November 22, 2022 (“NYAG Responses”).

6. Attached hereto as **Exhibit C** is a true and correct copy of “The National Rifle Association Of America’s Second Set Of Interrogatories To Plaintiff,” dated June 9, 2022.

7. Attached hereto as **Exhibit D** is a true and correct copy of a letter from the NRA to the Special Master, dated June 1, 2022, in which the NRA requests an order directing the NYAG to serve disclosures pursuant to Commercial Division Rule 11. Attached to the NRA’s June 1, 2022 letter is a copy of a letter from the NRA to the NYAG, dated May 27, 2022, in which the NRA requests the NYAG stipulate to the entry of an order by the Special Master directing the NYAG to make disclosures under the updated Commercial Division Rule 11, which include the issues in the case, elements of each of the NYAG’s causes of action, and the facts underlying the allegations.

8. Attached hereto as **Exhibit E** is a true and correct copy of the “Plaintiff’s Responses And Objections To Defendant NRA’s Amended Notice Of Rule 11-F Oral Examination Of The Office Of The Attorney General Of The State Of New York,” dated January 20, 2022.

9. Attached hereto as **Exhibit F** is a true and correct copy of the “Responses And Objections Of Plaintiff The People Of The State Of New York To Defendant NRA’s Second Set Of Interrogatories,” dated July 6, 2022.

10. Attached hereto as **Exhibit G** is a true and correct copy of a letter from the NYAG to the Special Master, dated June 7, 2022, in which the NYAG opposes the NRA's June 1, 2022 letter requesting an order directing the NYAG to serve disclosures pursuant to Commercial Division Rule 11.

11. Attached hereto as **Exhibit H** is a true and correct copy of a letter from the NRA to the NYAG, dated December 8, 2022, in which the NRA informs the NYAG of the NYAG's failure to comply with the NYAG's discovery obligations because of, among other things, the NYAG's deficient responses to the NRA's interrogatories.

12. Attached hereto as **Exhibit I** is a true and correct copy of email correspondence between the NRA and NYAG between November 22, 2022 and February 2, 2023, in which the NRA and NYAG discuss the NYAG's deficient responses to the NRA Contention Interrogatories.

13. Attached hereto as **Exhibit J** is a true and correct copy of a letter from the NRA to the NYAG, dated January 20, 2023, in which the NRA informs the NYAG of the NYAG's significant deficiencies in the NYAG's responses to the NRA Contention Interrogatories, including specifically NRA Contention Interrogatories 1, 2, and 8.

14. Attached hereto as **Exhibit K** is a true and correct copy of a letter from the NRA to the NYAG, dated February 1, 2023, in which the NRA informs the NYAG of the NYAG's continued failure to comply with the NYAG's discovery obligations and provide complete responses to the NRA Contention Interrogatories.

15. Attached hereto as **Exhibit L** is a true and correct copy of a letter from the NRA to the Court, dated January 11, 2023, in which the NRA responds to the NYAG's Note of Issue filed on December 22, 2022, and points out, among other things, the NYAG's continued failure to

comply with the NYAG's discovery obligations and provide complete responses to the NRA Contention Interrogatories.

16. The Second Amended Verified Complaint (NYSCEF 646), referred to in the memorandum of law in support of this motion as the "Complaint," was filed by the NYAG on May 2, 2022.

17. NYSCEF 710 is the "Special Master Report On The June 16, 2022 Hearing," dated June 16, 2022, issued by the Special Master on June 16, 2022.

18. NYSCEF 717 is the NRA's "Amended Notice Of Rule 11-F Oral Examination Of The Office Of The Attorney General Of The State Of New York," dated December 31, 2021, which was served on the NYAG on December 31, 2021, and has been previously filed as an exhibit to an affirmation in this case.

19. NYSCEF 769 is the "Discovery Order," dated July 15, 2022, issued by the Special Master on July 15, 2022.

20. NYSCEF 829 is the "Fifth Revised Scheduling Order," dated August 11, 2022, issued by this Court on August 11, 2022.

21. NYSCEF 858 is the "Decision + Order On Motion," dated October 17, 2022, related to Motion Sequence Nos. 31, 32, and 33, issued by this Court on October 17, 2022.

22. NYSCEF 1003 is the "Note Of Issue" and "Certificate Of Readiness For Trial," dated December 20, 2022, which were filed by the NYAG on December 22, 2022.

23. NYSCEF 1004 is the "Addendum To Note Of Issue And Certificate Of Readiness," dated December 22, 2022, which was filed by the NYAG on December 22, 2022.

Dated: March 14, 2023  
New York, New York

/s/ Christopher T. Zona  
Christopher T. Zona  
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**CERTIFICATION OF COMPLIANCE**

I hereby certify pursuant to Rule 17 of the Rules of Practice for the Commercial Division of the Supreme Court of the State of New York that the total number of words in the foregoing document, exclusive of the caption, table of contents, table of authorities and signature block, is 1,039 according to the “Word Count” function of Microsoft Word, the word-processing system used to prepare the document, and thus that the document complies with the word count limit set forth in Rule 17.

Dated: March 14, 2023  
New York, NY

/s/ Christopher T. Zona  
Christopher T. Zona

**CERTIFICATE OF SERVICE**

I, Christopher T. Zona, hereby certify that, on March 14, 2023, a true and correct copy of the foregoing document was electronically transmitted and served upon all counsel of record via this Court's electronic case filing system.

Dated: March 14, 2023  
New York, NY

/s/ Christopher T. Zona  
Christopher T. Zona