

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

**AFFIRMATION IN
SUPPORT OF PLAINTIFF
THE PEOPLE OF THE
STATE OF NEW YORK'S
REQUEST FOR AN
ADJOURNMENT**

Monica Connell, an attorney duly admitted to practice before the Courts of this State, hereby affirms the following under the penalty of perjury pursuant to CPLR § 2106:

1. I am an Assistant Attorney General and Senior Litigation Counsel in the Enforcement Section of the Charities Bureau of the Office of the New York State Attorney General ("OAG" or "Attorney General"), counsel for Plaintiff, People of the State of New York ("Plaintiff").

2. I submit this affirmation in support of Plaintiff's application for an adjournment of Plaintiff's time to oppose a motion brought by Defendant National Rifle Association of America ("NRA") to exclude Plaintiff's expert Dr. Erica Harris. (Motion Sequence No. 47) (NYSCEF Nos. 1320-1329). Plaintiff asks that, pending such other or further schedule as may be imposed by the Hon. Joel M. Cohen, the judge assigned to this case, Motion Sequence No. 47 be adjourned for all purposes until May 26, 2023, at 9:30 a.m, 60 days after the initial return date.

3. This is Plaintiff's first request for an extension of the date for opposition.

4. Pursuant to the Order of Justice Cohen, motions directed to experts, like the instant motion, were directed to be filed by March 24, 2023. The NRA filed Motion Sequence 47 prior to that date, on March 10, 2024. At the time, the parties were briefing dispositive motions, as well as other motions. In addition, the parties had two more weeks to file expert motions and additional expert motions were anticipated.

5. In the interest of efficiency and to avoid burdening the Court with multiple submissions, on March 17, 2023, Plaintiff proposed to defendant NRA that the return date on Motion Sequence No. 47 be adjourned to allow the parties to confer on a consolidated briefing schedule once all expert motions were filed on March 24, 2023. This would allow submission of unified briefs in the event of multiple motions directed at the same experts. Two of the defendants agreed to Plaintiff's proposal to set a global schedule for expert motions. The NRA refused to adjourn Motion Sequence No. 47.

6. On March 17, 2023, Plaintiff filed a letter request to the Court for an extension of its time to oppose Motion Sequence No. 47 (NYSCEF 1520) and sent the request to Chambers for Justice Cohen. Justice Cohen's Principal Law Clerk responded by email, directing that "If there is any opposition to this, please file a responsive letter **on or by Tuesday the 21st.**" (emphasis added).

7. The day after a responsive letter was due, at 5:04 p.m. on March 22, 2023, the NRA submitted a letter (NYSCEF 1662) stating in relevant part that "the NRA will contact the NYAG and other Defendants over setting a time for a conference to discuss a consolidated briefing schedule. Hopefully, the Parties will come to an agreement and provide the Court with an agreed-upon stipulation setting forth a consolidated briefing schedule that incorporates and accounts for

the motions currently being briefed as well as the motions directed at experts due on March 24, 2023.” However, the NRA did not contact Plaintiff to confer on a mutually acceptable consolidated briefing schedule.

8. On Thursday, March 23, 2023, after Justice Cohen’s Chambers received multiple additional requests regarding briefing schedules, Justice Cohen’s law clerk directed the parties to meet-and-confer on March 23rd and 24th on a proposed omnibus briefing schedule and to submit a proposal on consent on Monday, March 27 or, alternatively, if no agreement could be reached, a joint letter stating the parties’ respective positions and proposed resolutions.

9. On the evening of March 23, 2023, Plaintiff circulated a stipulation setting out a proposed briefing schedule and asking for the parties’ comments or consent. On March 24, 2023, Plaintiff followed up multiple times seeking consent or, alternatively, the parties’ positions. Plaintiff asked that all parties convey their positions by 4:45 today, March 24, 2023. Ultimately, agreement was reach with two of the five Defendants. At the time of this filing, Plaintiff has not heard back from three defendants, the NRA, Wayne LaPierre and John Frazer on the schedule despite emails requesting a response.

10. Given the numerous motions already filed in the last six weeks in this case and those that will be filed in the next few weeks, Plaintiff requires more time to respond to Mot. Seq. 47. In addition, as a matter of efficiency and to avoid additional burdens on the Court, Plaintiff should be permitted to see if any other motions directed at Plaintiff’s expert witness Dr. Harris are filed today so that Plaintiff may submit a unified opposition to all such motions.

11. Plaintiff has sought this extension in an excess of caution pending Justice Cohen’s decision on the briefing schedule for all pending motions, including those directed at experts.

WHEREFORE, in light of the foregoing, Plaintiff respectfully requests that this matter, currently returnable at the Motion Support Office of the New York County Courthouse located at 60 Centre Street, New York, New York, Room 130 on March 27, 2023, at 9:30 a.m., be adjourned for all purposes until May 26, 2023, at 9:30 a.m, 60 days after the initial return date.

Dated: New York, New York
March 24, 2023

Respectfully submitted,

BY: 

Monica Connell

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Attorney for Respondent