

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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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, JOSHUA POWELL,

Defendants.

INDEX NO. 451625/2020

MOTION DATE 01/25/2023

MOTION SEQ. NO. 042

**DECISION + ORDER ON
MOTION**

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HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 042) 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1158

were read on this motion to

SEAL

Defendant The National Rifle Association of America (the “NRA”) moves for an order permitting a communication between the NRA and its outside auditor and tax preparer, Aronson LLC (NYSCEF 1087) to be filed under seal pending its appeal from the Court’s October 3, 2022 order (NYSCEF 843) requiring production of the document. Plaintiff the People of the State of New York by the Office of the Attorney General (“OAG”) consents to the relief requested on the conditions that the NRA timely perfects its appeal and that the document be unsealed if the appeal is unsuccessful. The NRA’s motion is **granted** on those conditions.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing “upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as of the parties” (22 NYCRR § 216.1 [a]).

The Appellate Division has emphasized that “there is a broad presumption that the public is entitled to access to judicial proceedings and court records” (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). “Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public's right to access” (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). “Furthermore, 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 access’” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The document in question was produced as “Highly Confidential” under the terms of the October 25, 2022 Protective Order (NYSCEF 869). The NRA asserts that the document is privileged, constitutes attorney work product and trial preparation material. The Court has reviewed the NRA and OAG’s submissions and believes that the relief requested is appropriately tailored to protect the single document at issue pending appeal.

Accordingly, it is:

ORDERED that Defendant the NRA’s motion is **GRANTED** on the condition that the NRA timely perfect its appeal from the Court’s October 3, 2022 order; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Number 1087 under seal, so that the document may only be accessible by the parties, their counsel, it is further

ORDERED that an unsealed version of the document be filed should the NRA’s appeal be unsuccessful; it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

This constitutes the Decision and Order of the Court.

3/30/2023

DATE

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

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CASE DISPOSED

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GRANTED

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DENIED

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SETTLE ORDER

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INCLUDES TRANSFER/REASSIGN

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NON-FINAL DISPOSITION

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GRANTED IN PART

☐

OTHER

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE

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JOEL M. COHEN, J.S.C.