

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

Hon. Joel M. Cohen

Mot. Seq. No. 44

**PLAINTIFF'S RESPONSE TO NRA'S RULE 19-a
COUNTERSTATEMENTS**

Plaintiff, pursuant to Commercial Division Rule 19-a and the Individual Rules of this Court, submits this Response to the NRA's Counterstatements to Plaintiff's Rule 19-a Statements. (NYSCEF 1459.)

Plaintiff objects to the NRA's Counterstatements, which do not constitute short and concise statements of the material facts as to which it is contended that there exists a genuine issue to be tried, as required by Commercial Division Rule 19-a(b). The NRA's Counterstatements do not raise facts that preclude the relief Plaintiff seeks or require resolution at trial. Further, Plaintiff objects to the extent that the NRA's Counterstatements are not supported by citation to admissible evidence and where such Counterstatements are attempts to re-litigate issues or matters already decided by the Court.

The NRA's Counterstatements begin with paragraph number 12; the preceding paragraphs

responding to Plaintiff's statement of material facts have been omitted.

I. NRA's Counterstatements

12. Exhibit 41 reflects Tom King's testimony in the NRA's chapter 11 proceeding.

RESPONSE: Undisputed but not material.

13. At a campaign rally on July 12, 2018, James pledged to "use *the constitutional power as an Attorney General* to regulate charities . . . to investigate [the NRA's] *legitimacy*."¹

RESPONSE: Disputed. This statement does not comply with Commercial Division Rule 19-a(b), as it does not contain an issue of material fact as to which there is a genuine issue to be tried. This statement is not material because even if disputed, it does not preclude the relief Plaintiff seeks for the reasons set forth in the accompanying memorandum of law. Furthermore, the statement relies on inadmissible hearsay. Plaintiff also objects to the extent that the statement purports to characterize and/or summarize statements made by Letitia James or others, and respectfully directs the court to the full source material for the complete, accurate statement in its full context.

14. She explained: "The NRA has an office here in New York State and what we want to do is *investigate* to see *whether or not* they [the NRA] have in fact complied with the not-for-profit law in the state of New York."²

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

15. A press release on her web site simultaneously announced that as Attorney General, James would "[u]se the powers of the [Attorney General's] office to investigate the legitimacy of the NRA as a charitable institution."³

¹ *New York Daily News* article, "Letitia James says she'd investigate NRA's not-for-profit status if elected attorney general," dated July 12, 2018 (URL: <https://www.nydailynews.com/news/politics/ny-pol-tish-james-nra-20180712-story.html> (accessed on or about March 10, 2023)) (Exhibit 5).

² *Id.*

³ Tish James for Attorney General Press Release, "Tish James Announces Attorney General Platform to Protect New Yorkers from Gun Violence," dated July 12, 2018 (URL: <http://www.tishjames2018.com/press-releases/2018/7/12/taking-on-the-scurge-of-gun-violence-and-keeping-new-yorkers-safe/> (accessed on or about March 12, 2023)) (Exhibit 3).

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

16. In the press release, James stated: The NRA is an organ of deadly propaganda *masquerading as a charity for public good*. Its agenda is set by gun-makers who think arming teachers is a better idea than making it harder for kids to get military grade guns.⁴

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

17. In a tweet on July 12, 2018, James states that her plan as Attorney General is to “take on the NRA, gun manufacturers, retailers & banks that fund these weapons of death.”⁵⁵

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

18. On August 26, 2018, James tweeted that New York “needs an Attorney General” who will “focus on: Criminal Justice Reform, Reproductive Rights, Environmental Protections, The @NRA, [and] Immigration. I'm ready to take these issues on”⁶

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

19. The next day, James tweeted: “Attorney General must be decisive & uncompromising in her efforts to end gun violence. I will go toe-to-toe with the @NRA. create a new coalition to fight gun

⁴ *Id.* Around this time, on her website, James posted “Taking on the Scourge of Gun Violence and Keeping New Yorkers Safe.” (URL: <https://s3.documentcloud.org/documents/7038016/Taking-on-the-Scourge-of-Gun-Violence-and.pdf> (accessed on or about March 10, 2023)), echoing her statements at the rally and in the press release. She stated, in part, “The NRA is an organ of deadly propaganda *masquerading as a charity for public good*. Its agenda is set by gun-makers As Attorney General, Tish James has the *constitutional power to regulate charities*, and *she will use* those powers to investigate the *legitimacy* of the charities under her jurisdiction, including the NRA.” *Id.* [Emphasis added] Exhibit 3.

⁵ Twitter post by Attorney General James on July 12, 2018 at 11:27 a.m. (URL: <https://twitter.com/TishJames/status/1017430252971347968> (accessed on or about March 6, 2023)). Exhibit 4.

⁶ Twitter post by Attorney General James on August 26, 2018 at 10:15 a.m. (URL: <https://twitter.com/TishJames/status/1033719519930396672> (accessed on or about March 11, 2023)). Exhibit 6.

trafficking, & hold gun makers accountable.”⁷ I'll take real action to save lives -- and I will never waver.”

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

20. On September 3, 2018, James tweeted: “Parents shouldn't worry about sending their kids to school. This CAN change & we CAN take down the @NRA. We CANNOT waver on gun control. That's why I'm running.”⁸

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

21. On September 4, 2018, less than 10 days before the primary elections, during a debate with other Democratic Attorney General candidates, James states (at 17:50 mark) that, if elected, her “top issue” would be “going after the NRA because it is a criminal enterprise.”⁹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

22. This was the first of the at least two publicly known times when James accused the NRA of being a “criminal enterprise.”

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

23. In her statement on July 12, 2018, she had called the NRA a “organ of deadly propaganda” and will later accuse it of being a “terrorist organization.”¹⁰

⁷ Twitter post by Attorney General James on August 27, 2018 at 1:24 p.m. (URL: <https://twitter.com/TishJames/status/1034129429377830913> (accessed on or about March 11, 2023)). Exhibit 7.

⁸ Twitter post by Attorney General James on September 3, 2018 at 3:45 p.m. (URL: <https://twitter.com/TishJames/status/1036701771081678849> (accessed on or about March 11, 2023)). Exhibit 9.

⁹ September 4, 2018 video of the Forum for the Democratic Attorney General Primary Candidates at a NYC bar association gathering where Letitia James calls the NRA a “criminal enterprise” (URL: https://www.youtube.com/watch?v=6n2_LHNEUW0 (accessed on or about March 11, 2023)). Exhibit 10.

¹⁰Tish James for Attorney General Press Release, “Tish James Announces Attorney General Platform to Protect New Yorkers from Gun Violence,” dated July 12, 2018 (URL: <http://www.tishjames2018.com/press-releases/2018/7/12/taking-on-the-scourge-of-gun-violence->

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

24. Asked in a press interview around the same time about the greatest challenges the Attorney General's office faces, James stated: "So, we need to again take on the NRA, which holds itself out as a charitable organization. But, in fact, they are not. They are nothing more than a criminal enterprise. We are waiting to take on all of the banks that finance them, their investors."¹¹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

25. In her later gubernatorial campaign in 2021, James touted her "work[] to eliminate the NRA."¹²

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

26. On September 13, 2018, the day of the primary elections, James re-tweeted Maxine Waters' recorded endorsement of James. The tweet quoted Waters' reference to the NRA: "Big Endorsement News - @MaxineWaters had endorsed our campaign! – 'While we're fighting @realDonaldTrump in Washington, D.C. New York has a chance to elect an attorney general who will investigate Trump, stand up to the NRA, and make sure that our rights are protected.'"¹³

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

27. On or about September 27, 2018, James hosted a Gun Violence Roundtable, where she reportedly

and-keeping-new-yorkers-safe/ (accessed on or about March 12, 2023)), Exhibit 3; *Our Time Press* interview of Attorney General Candidate, Letitia James on September 6, 2018 (URL: <https://web.archive.org/web/20180909170122/https://ourtimepress.com/attorney-general-candidate-public-advocate-letitia-james/> (accessed on or about March 10, 2023)), Exhibit 12.

¹¹ *Our Time Press* interview of Attorney General Candidate, Letitia James on September 6, 2018 (URL: <https://web.archive.org/web/20180909170122/https://ourtimepress.com/attorney-general-candidate-public-advocate-letitia-james/> (accessed on or about March 10, 2023)), Exhibit 12.

¹² *The Washington Post* article, "New York Attorney General Letitia James Announces Run for Governor," dated October 29, 2021 (URL: <https://www.washingtonpost.com/politics/2021/10/29/new-york-attorney-general-letitia-james-announces-run-governor/> (accessed on or about March 12, 2023)). Exhibit 42.

¹³ Twitter post by Attorney General James on September 13, 2018 at 11:04 a.m. (URL: <https://twitter.com/TishJames/status/1040254989489332225> (accessed on or about March 6, 2023)). Exhibit 14.

stated that she makes “no distinction” between the lobbying and charitable arms of the NRA. She also was reported to have said, “NRA is an organization that needs to be held accountable for the destruction and the loss of lives that it is impacting here on Long Island and all across our nation.”¹⁴

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

28. On September 26, 2018, James tweeted that “[t]he Attorney General has the power & responsibility to take on: Criminal Justice Reform, Corruption, Gun violence & the @NRA, @realDonaldTrump & his cronies, Any force that tries to move us backwards, I cannot wait to get to work as the next AG of NY.”¹⁵

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

29. On September 28, 2018, James tweeted: “Yesterday, I met with leaders on Long Island to discuss how we keep our communities safe from gun violence. As AG, I’ll take on the @NRA investigate arms dealers, enforce prohibitions against the sale of illegal firearms, & investigate the financial backers of gun makers.”¹⁶

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

30. On October 8, 2018, James retweeted Shannon Watts’ endorsement: “I’m proud to be a @MomsDemand Gun Sense Candidate. When I’m Attorney General I’ll take on the @NRA and

¹⁴ *LIHerald.com* article, “Annual NRA Fundraiser Sparks Protests,” dated October 25, 2018 (URL: <https://web.archive.org/web/20220525171641/https://liherald.com/stories/nassau-protests-nra-fundraiser,107617>) (accessed on or about March 12, 2023)). Exhibit 17.

¹⁵ Twitter post by Attorney General James on September 26, 2018 at 11:11 a.m. (URL: <https://twitter.com/TishJames/status/1044967822210846720> (accessed on or about March 11, 2023)). Exhibit 16.

¹⁶ Twitter post by Attorney General James on September 28, 2018 at 9:18 a.m. (URL: <https://twitter.com/TishJames/status/1045664058022735873> (accessed on or about March 11, 2023)). Exhibit 18.

investigate their status as a non-profit. Maybe they'll make a new grade for that too.”¹⁷

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

31. In just a few months, two senior officials in her office held an hour-long meeting about the NRA's Form 990 with multiple representatives of Everytown for Gun Safety.¹⁸

RESPONSE: Disputed. This statement does not comply with Commercial Division Rule 19-a(b), as it does not contain an issue of material fact as to which there is a genuine issue to be tried. Furthermore, to the extent this paragraph purports to characterize or summarize deposition testimony, Plaintiff respectfully directs the Court to the full transcript for the full context of the purported statements. Plaintiff further objects to the extent that the testimony cited does not support the counterstatement, and to the NRA's failure to cite to specific portions of the transcript.

32. Everytown self-describes as a counterweight to the NRA.

RESPONSE: Disputed. This statement does not comply with Commercial Division Rule 19-a(b), as it does not contain an issue of material fact as to which there is a genuine issue to be tried. Furthermore, Plaintiff objects and states that no response is required because the NRA offers no factual support for this statement as required by Rule 19-a(d).

33. Everytown is affiliated with Moms Demand Action.

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 32, *supra*.

34. According to sworn testimony of the NYAG's corporate representative in the NRA's chapter 11 proceeding, one from the Second Amendment litigation section of the NYAG's office was in attendance.

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 31, *supra*.

35. At the meeting, the OAG was represented by a senior lawyer from James's executive office (Laura Wood) and the head of the NYAG's Charities Bureau (James Sheehan), who is also the lawyer

¹⁷ Twitter post by Attorney General James on October 8, 2018 at 4:45 p.m. (URL: <https://twitter.com/TishJames/status/1049400310593200134> (accessed on or about March 11, 2023)). Exhibit 19.

¹⁸ Transcript of W. Wang's deposition testimony (as corporate representative of the NYAG) during the NRA's chapter 11 proceeding. Exhibit 54.

who would later go on to verify the NYAG's complaint against the NRA.¹⁹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 31, *supra*.

36. On October 22, 2018, James tweeted “As AG, I’ll do everything I can to ensure we don’t lose another life to senseless gun violence. **Investigate the @NRA’s status as a non-profit**, Hold gun manufacturers & financial backers accountable, Publish expanded gun data research.”²⁰ (emphasis added).

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

37. On or about October 31, 2018, just a week before the election, in an interview with a magazine, James reportedly stated that “the NRA holds [itself] out as a charitable organization, but in fact, [it] really [is] a **terrorist organization**.”²¹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

38. This was at least for the fourth time since July 12, 2018 that James claimed that the NRA was not a legitimate charitable organization.²²

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

39. On April 2, 2020, after NRA's reported lawsuit over New York's decision to deem gun retailers non-essential businesses, James issued a press release, stating: “We will aggressively defend the state against yet another legal assault by the NRA.”²³

¹⁹ *Id.*

²⁰ Twitter post by Attorney General James on October 22, 2018 at 1:31 p.m. (URL: <https://twitter.com/TishJames/status/1054424991591292929> (accessed on or about March 11, 2023)). Exhibit 20.

²¹ *Ebony* article, “Letitia ‘Tish’ James on Becoming New York’s Next Attorney General,” dated October 31, 2018 (URL: <https://www.ebony.com/letitia-tish-james-on-becoming-new-yorks-next-attorney-general/> (accessed on or about March 12, 2023)). Exhibit 21.

²² Exhibit 22.

²³ July 12, 2018 press release posted on the <https://ag.ny.gov/> website, “Tish James Announces Attorney General Platform to Protect New Yorkers from Gun Violence” (URL:

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

40. On August 6, 2020, at a press conference about the lawsuit, James referred to it as a lawsuit to dissolve the NRA.²⁴

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

41. Asked to name precedent for seeking dissolution in similar circumstances, Attorney General James did not answer the question and, instead, ceded the podium to Jim Sheehan, who, in turn, gave two examples.²⁵

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

42. At the press conference on August 6, 2020, James also stated that, according to her Complaint against the NRA, “the NRA operated as a personal piggy bank to 4 individual defendants.”

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

43. The Complaint filed that day—and each subsequent iteration of the Complaint—contains no allegations to this effect with regard to its Secretary and General Counsel John Frazer—one of the four individual defendants.

RESPONSE: Disputed. To the extent the NRA characterizes or summarizes the contents of the initial Complaint in this action or subsequent amendments thereto, Plaintiff respectfully directs the Court to the full Complaint.

44. At the press conference on August 6, 2020, James stated that the NRA destroyed “all of its” assets.

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

<https://ag.ny.gov/press-release/2020/attorney-general-james-statement-reports-nra-lawsuit-related-covid-19>) (accessed on or about March 12, 2023)). Exhibit 3.

²⁴ Attorney General James’ press conference on August 6, 2020 (URL: <https://ag.ny.gov/livestream/attorney-general-james-files-lawsuit-dissolve-nra> (accessed on or about March 12, 2023)). Exhibit 32.

²⁵ *Id.* at 14:29 mark.

45. The Complaint filed that day—and each subsequent iteration of the NYAG's Complaint in this action—contains allegations to the effect that the NRA destroyed “all of its” assets.

RESPONSE: Disputed. To the extent the NRA characterizes or summarizes the contents of the initial Complaint in this action or subsequent amendments thereto, Plaintiff respectfully directs the Court to the full Complaint.

46. At the press conference, James was asked whether her lawsuit was “further victimizing [the NRA donors and members]” by “forcing the organization to close.”

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

47. She was also asked whether that “necessarily [was fair to these] victims here.”

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

48. In responding to this question, James accused the individual defendants of looting the NRA's assets to the point of “financial[] . . . deficit.”

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

49. She stated: “The issue is the following. A number of donors have contributed to the NRA because they believe in their mission. At this point in time, the NRA right now is financially is in deficit. And as a result of four individual defendants who have basically looted its assets. And so one would think that the donors would like for an organization to have some governance, some standards, some standards of behavior, and that they would recognize their fiduciary duty, [inaudible 00:23:08] not for profit and or its mission, as opposed to looting assets and using it for their own personal benefit and their family.”²⁶

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

50. A tweet released during the press conference on August 6, 2020, stated: “The NRA has failed to carry out its stated mission for many years, and instead, operated as a breeding ground for greed

²⁶ *Id.* at 21:55 mark.

and abuse.”²⁷

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

51. A press release issued on the same day quoted James as saying: “The NRA is fraught with fraud and abuse, which is why, today, we seek to dissolve the NRA, because organization is above the law.”²⁸

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

52. Later, on the afternoon of August 6, 2020, James issues a tweet regarding her upcoming appearance on MSNBC. In the tweet, she referred to this action as “the lawsuit my office filed today to dissolve the @NRA . . . ”²⁹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

53. During her MSNBC appearance on August 6, 2020, James stated: “And so, we seek to dissolve the corporation because their behavior was pervasive and persistent and it's throughout the entire corporation.”³⁰

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

54. On the afternoon of August 6, 2020, New York Times reporter Maggie Haberman tweeted that

²⁷ Twitter post by Attorney General James on August 6, 2020 at 10:49 a.m. (URL: <https://twitter.com/NewYorkStateAG/status/1291401010544607233> (accessed on or about March 12, 2023)). Exhibit 30.

²⁸ August 6, 2020 press release posted on the <https://ag.ny.gov/> website, “Attorney General James Files Lawsuit to Dissolve NRA” (URL: <https://ag.ny.gov/press-release/2020/attorney-general-james-files-lawsuit-dissolve-nra>) (accessed on or about March 12, 2023)).

²⁹ Twitter post by Attorney General James on August 6, 2020 at 8:20 p.m. (URL: <https://twitter.com/NewYorkStateAG/status/1291544760990289921> (accessed on or about March 12, 2023)). Exhibit 33.

³⁰ *MSNBC* interview of Attorney General James on August 6, 2020 (URL: <https://www.youtube.com/watch?v=22lgahjdAi8>) (accessed on or about March 12, 2023)). Exhibit 34.

James started fundraising about “fighting powerful forces with \$\$ running amok.”³¹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

55. Haberman’s post appeared just hours after James’s press conference about the NRA.³²

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

56. In her tweet, Haberman notes that the fundraising letter does not mention the NRA by name.³³

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

57. On August 9 and 13, 2020, James tweets summarizing recent achievements and again refers to

this action as a “lawsuit to dissolve the NRA.”³⁴ For example, the August 13, 2020 tweet said:

“One week ago, I filed a lawsuit to dissolve the @NRA.”³⁵

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

58. On August 10, 2020, James stated that she was seeking the dissolution of the NRA [b]ecause the

rot runs deep. It's pervasive. It's throughout the entire organization.”³⁶

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

59. On August 10, 2020, in her appearance on Pod Save America, James stated: “We’ve got a

³¹ Twitter post by Maggie Haberman on August 6, 2020 at 4:28 p.m. (URL: https://twitter.com/maggieNYT/status/1291486241842700290?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1291486241842700%E2%80%A6 (accessed on or about March 12, 2023)). Exhibit 30.

³² *Id.*

³³ *Id.*

³⁴ Twitter post by Attorney General James on August 9, 2020 at 3:16 p.m. (URL: <https://twitter.com/NewYorkStateAG/status/1292555375007473667> (accessed on or about March 12, 2023)). Exhibit 36.

³⁵ Twitter post by Attorney General James on August 13, 2020 at 9:57 a.m. (URL: <https://twitter.com/NewYorkStateAG/status/1293924612124876807> (accessed on or about March 12, 2023)). Exhibit 37.

³⁶ *Pod Save America* podcast, “Art of the Steal” featuring Attorney General James on August 10, 2020 (URL: <https://crooked.com/podcast/art-of-the-steal/>) (accessed on or about March 12, 2023)). Exhibit 39.

responsibility and a duty to make sure that individuals comply with the law -- and particularly not-for-profits that are incorporated in the state of New York. It has nothing to do with the Second Amendment and nothing to do with my personal opinions or views on gun violence. But all to do with compliance with the law and ensuring that individuals adhere to rules and regulations.”³⁷

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

60. On October 19, 2020, a profile piece on James in Vanity Fair stated: “Her efforts to dissolve the NRA have drawn ire across the political spectrum, with some detractors claiming she harbors a vendetta against a group she described in a 2018 Ebony article as a ‘terrorist’ organization. James dismisses accusations . . . she explains. ‘. . . The alleged illegality came to our attention *as a result of public accounts*. We initiated a nine-month investigation, and *then* I decided we had a responsibility to ensure that the mission of the NRA was being carried out according to its own bylaws.”³⁸

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

61. On numerous other occasions, Letitia James made additional anti-NRA statements in which she expressed her animus toward the NRA.

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*. Plaintiff further objects and states that no response is required because this paragraph does not cite to any evidence as required by Commercial Division Rules 19-a(d).

62. Such statements include statements on the following dates and, where applicable, contain the language quoted in parentheses below:

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

³⁷ *Id.*

³⁸ *Vanity Fair* article, “Why Letitia James is Taking on Trump, the NRA and More,” dated October 19, 2020 (URL: <https://www.vanityfair.com/news/2020/10/why-letitia-james-is-taking-on-trump-the-nra-and-more> (accessed on or about March 12, 2023)). Exhibit 40.

63. August 27, 2018 twitter post by Letitia James, stating “Attorney General must be decisive & uncompromising in her efforts to end gun violence. I will go toe-to-toe with the @NRA. create a new coalition to fight gun trafficking, & hold gun makers accountable.” I’ll take real action to save lives -- and I will never waver.”; 3.2.18; 5.18.18; 8.22.18; 8.26.18; 9.1.18 (“Grassroots leaders and volunteers power our campaign. Together. we can win this and take on @realdonaldtrump & the @nra and make sure all New Yorkers’ rights are protected.”); 9.4.18 (“The @NRA is pouring \$1M into [Justice Kavanaugh’s] confirmation. It’s a clear sign of the kind of justice Kavanaugh will be. We must #StopKavanaugh & take down the @NRA.”); 9.21.18; 10.1.18 (accusing Republicans in Congress of “once again turn[ing] a blind eye [to gun violence], while taking @NRA money”); 10.10.18; 10.29.18; and 08.13.19.³⁹

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

64. After the Court dismissed on March 2, 2022 the NYAG’s dissolution claims, he [sic] asserted a new claim against the NRA, in which, pursuant to EPTL 8-1.4(m), she seeks, among other things, the appointment of an independent compliance monitor and an independent governance expert to oversee administration of the assets that the NRA holds and administers for charitable purposes. NYSCEF 646.

RESPONSE: Disputed. To the extent the NRA characterizes or summarizes the contents of the Second Amended Verified Complaint, Plaintiff respectfully directs the Court to the full Complaint for a complete and accurate statement of its contents.

65. The only other case in which the NYAG sought such a remedy under EPTL 8-1.4(m)—ever— in a pleading is the Diocese of Buffalo case. NYSCEF 768.

RESPONSE: Disputed. Plaintiff objects on the grounds that this statement is vague and ambiguous. Plaintiff further objects and states that no response is required because the NRA does not cite any evidence in support of this statement as required by Commercial Division Rule 19-a(d).

³⁹ Exhibits 7, 8, and 57.

66. In that case, the Diocese was accused of having failed to properly monitor priests suspected of sexual abuse. NYSCEF 768.

RESPONSE: Disputed. To the extent the NRA characterizes or summarizes the contents of the mentioned complaint, Plaintiff respectfully directs the Court to the full complaint for a complete and accurate statement of its contents.

67. After the NRA challenged the independent compliance monitor remedy as unprecedented, the NYAG filed on July, 2022, a memorandum of law (NYSCEF 768), in which the NYAG argued that the request for such a remedy was not unprecedented.

RESPONSE: Disputed. To the extent the NRA characterizes or summarizes arguments contained in Plaintiff's memorandum of law, Plaintiff respectfully directs the Court to the full memorandum for a complete and accurate statement of its contents.

68. A true and correct copy of the memorandum of law appears on NYSCEF 768.

RESPONSE: Undisputed.

69. Exhibits to the affirmation of Svetlana M. Eisenberg dated March 13, 2023 are accurate reflections of James's statements.

RESPONSE: Disputed. Plaintiff incorporates its response to Paragraph 13, *supra*.

70. The NRA's Managing Director of Membership, Derek Robinson, believes that for the reasons set forth in his affidavit dated March 13, 2023, "if [the] court were to appoint an independent compliance monitor as the Attorney General asks, such an appointment would have deleterious effects on the NRA's ability to obtain and retain members and raise contributions."⁴⁰

RESPONSE: Undisputed that the affidavit so states but not material to this motion. Plaintiff incorporates its response to Paragraph 13, *supra*.

⁴⁰ Affidavit of Derek Robinson (Exhibit 54).

Dated: April 3, 2023
New York, New York

LETITIA JAMES
Attorney General of the State of New York

/s/ Stephen Thompson
Steven Shiffman
Monica Connell
Stephen Thompson
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