

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

**DEFENDANT WILSON  
PHILLIPS'S RESPONSE TO  
PLAINTIFF'S  
RULE 19-a STATEMENT OF  
MATERIAL FACTS**

Motion Sequence No. 44

Defendant Wilson Phillips ("Mr. Phillips"), under New York Civil Practice Law and Rules ("CPLR") § 3212, 22 N.Y.C.R.R. § 202.8-g, and Commercial Division Rule 19-a, submits its response to Plaintiff's Rule 19-a Statement of Material Facts in Support of Plaintiff's Motion to Dismiss Certain of the Defendant's Affirmative Defenses.

1. On August 6, 2020, Plaintiff commenced this action by service of summons and complaint. (NYSCEF 1.)

**RESPONSE:** Undisputed.

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.)

**RESPONSE:** Disputed to the extent that the paragraph does not set forth the exact language of the asserted counterclaims.

3. On June 24, 2021, Plaintiff moved to dismiss the Counterclaims. (NYSCEF 264.)

**RESPONSE:** Undisputed.

4. On July 20, 2021, Defendant National Rifle Association of America amended its answer, and re-asserted its Counterclaims. (NYSCEF 325.)

**RESPONSE:** Undisputed.

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

**RESPONSE:** Undisputed.

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.)

**RESPONSE:** Disputed to the extent that the paragraph does not set forth the exact language of the parties’ Motions to Dismiss.

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

**RESPONSE:** Undisputed

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.)

**RESPONSE:** Disputed to the extent that the paragraph does not set forth the exact language of the Court’s Order.

9. On October 21, 2022, Defendants John Frazer and Wayne LaPierre answered the

Operative Complaint, asserting the affirmative defenses therein. (NYSCEF 864–865.)

**RESPONSE:** Undisputed.

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

**RESPONSE:** Undisputed.

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.)

**RESPONSE:** Disputed to the extent that the paragraph does not set forth the full and exact language of the Court’s Decision and Order. Further, not all Defendants sought dismissal of the operative complaint, including Mr. Phillips who did not move to dismiss.

Dated: March 13, 2023  
New York, New York

Respectfully submitted,

By: /s/ Seth C. Farber

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