

EXHIBIT A-2

**Redline of NYSCEF 1350 vs. 1459
NRA's Rule 19-a Response and Statement in opposition to
Motion Sequence No. 44**

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	§	Index No. 451625/2020
OF NEW YORK,	§	Motion Sequence No. 44
Plaintiff,	§	
v.	§	
THE NATIONAL RIFLE ASSOCIATION	§	
OF AMERICA, WAYNE LAPIERRE,	§	
WILSON PHILLIPS, JOHN FRAZER, and	§	
JOSHUA POWELL,	§	
Defendants.	§	
	§	
	§	
	§	

**THE NATIONAL RIFLE ASSOCIATION OF AMERICA’S
CORRECTED RESPONSE AND COUNTERSTATEMENTS
TO THE NYAG’S RULE 19-a STATEMENT**

Defendant National Rifle Association of America (the “NRA”), pursuant to Commercial Division Rule 19-a(b), and the Individual Rules of this Court, submits this Response and Counterstatements to the NYAG’s “Statement of Undisputed Material Facts” [NYSCEF No. 1177]. Citations to Exhibits herein are to the documents annexed to the Affirmation of Svetlana Eisenberg, dated March 13, 2023 (as corrected on March 17, 2023), which is filed herewith.

I. NRA’s Responses to the NYAG’s Rule 19-a Statements

1. On August 6, 2020, Plaintiff commenced this action by service of summons and complaint [NYSCEF No. 1].

Response: This statement is not disputed.

2. On February 23, 2021, Defendant National Rifle Association of America 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 No. 230].

Response: This statement is not disputed.

3. On June 24, 2021, Plaintiff moved to dismiss the Counterclaims [NYSCEF 264].

Response: This statement is not disputed.

4. On July 20, 2021, Defendant National Rifle Association of America amended its answer, and re-asserted its Counterclaims [NYSCEF No. 325].

Response: This statement is not disputed.

5. On May 2, 2022, Plaintiff filed the operative Second Amended Verified Complaint (the “Operative Complaint”) [NYSCEF No. 646].

Response: This statement is not disputed.

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: The NRA disputes this statement. The NRA's motion focused solely on the NYAG's First Cause of Action under EPTL 8-1.4(m).

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

Response: This statement is not disputed.

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 No. 706 at 2].

Response: The NRA disputes this statement. The Court dismissed the counterclaims in large part on procedural grounds, including immunity, venue, and mootness. To the extent the Court held that the counterclaims were not plausibly stated, that ruling was limited to the NYAG's commencement of the investigation. The Court therefore did not reach the counterclaim alleging that the NYAG violated the NRA's and its members constitutional rights when she brought the dissolution lawsuit or elected to seek other draconian and disproportionate remedies, such as the anti-solicitation injunction, removal of Wayne LaPierre, and the appointment of an independent compliance monitor and an independent governance expert.

9. On October 21, 2022, Defendants John Frazer and Wayne LaPierre answered the Operative Complaint, asserting the affirmative defenses therein. [NYSCEF 864–865].

Response: This statement is not disputed.

10. On November 2, 2022, Defendant National Rifle Association of America answered the Operative Complaint, asserting the affirmative defenses therein [NYSCEF No. 889].

Response: This statement is not disputed.

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: Plaintiff’s characterization of the ruling is unduly broad. The motion

concerned one of the four claims asserted against the NRA. It did not concern the Thirteenth, the Fourteenth, or the Fifteenth causes of action. As a result, there is basis for NYAG's attempt to argue that the Court already addressed—let alone rejected—extra-territoriality defenses to those claims. Moreover, as it pertains to the First Cause of Action, it is inaccurate to say that the Court “reject[ed] Defendants’ extra-territoriality argument” pertaining to that claim. What the Court stated was that the extra-territoriality issue did not warrant dismissal of the claim at the motion to dismiss stage. The Court expressly stated that it was not ruling on whether any specific relief is appropriate. Therefore, to the extent that the NYAG is asking the court to impose equitable remedies with regard to assets of the NRA, such relief cannot be granted unless the Court resolves the following yet-undecided issues: (i) Must the NYAG prove that the assets at issue in the independent compliance monitor request for relief are held by the NRA for charitable purposes within the meaning of EPTL 8-1.4 in the state of New York? (ii) Must the NYAG prove that the assets at issue in the same request for relief are administered by the NRA for charitable purposes within the meaning of the statute in state of New York?; (iii) if yes, to what extent, if any, has the NYAG done so?

II. NRA’s Counterstatements

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

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).

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
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
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
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.”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).

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.

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

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.

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.

22. This was the first of the at least two publicly known times when James accused the NRA of being a “criminal enterprise.”
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
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
25. In her later gubernatorial campaign in 2021, James touted her “work[] to eliminate the NRA.”¹²
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

10 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; *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.

who will investigate Trump, stand up to the NRA, and make sure that our rights are protected.”¹³

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

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

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

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.

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.

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 investigate their status as a non-profit. Maybe they'll make a new grade for that too."¹⁷
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
32. Everytown self-describes as a counterweight to the NRA.
33. Everytown is affiliated with Moms Demand Action.
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.
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 who would later go on to verify the NYAG's complaint against the NRA.¹⁹
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

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.](#)

¹⁹ Id.

gun manufacturers & financial backers accountable, Publish expanded gun data research.”²⁰

(emphasis added).

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

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

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

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

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: <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.

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
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.”
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.
44. At the press conference on August 6, 2020, James stated that the NRA destroyed “all of its” assets.
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.
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.”
47. She was also asked whether that “necessarily [was fair to these] victims here.”
48. In responding to this question, James accused the individual defendants of looting the NRA's assets to the point of “financial[] . . . deficit.”
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 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

²⁵ *Id.* at 14:29 mark.

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

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 and abuse.”²⁷

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

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

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

²⁶ *Id.* at 21:55 mark.

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.

54. On the afternoon of August 6, 2020, New York Times reporter Maggie Haberman tweeted that James started fundraising about “fighting powerful forces with \$\$ running amok.”³¹
55. Haberman’s post appeared just hours after James’s press conference about the NRA.³²
56. In her tweet, Haberman notes that the fundraising letter does not mention the NRA by name.³³
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
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
59. On August 10, 2020, in her appearance on Pod Save America, James stated: “We've got a 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

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, 2013)). Exhibit 39.

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

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

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

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

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

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.

(“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

64. After the Court dismissed on March 2, 2022 the NYAG’s dissolution claims, he 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.
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.
66. In that case, the Diocese was accused of having failed to properly monitor priests suspected of sexual abuse. NYSCEF 768.
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.
68. A true and correct copy of the memorandum of law appears on NYSCEF 768.
69. Exhibits to the affirmation of Svetlana M. Eisenberg dated March 13, 2023 are accurate reflections of James’s statements.
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

³⁹ [Exhibits 7, 8 and 57.](#)

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

Dated: [Filed on](#) March 13, 2023
[Corrected on March 17, 2023](#)
New York, New York

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⁴⁰ Affidavit of Derek Robinson (Exhibit 5[43](#)).