

# **EXHIBIT A-3**

**Redline of NYSCEF 1357 vs. 1460  
Affirmation of Svetlana M. Eisenberg in  
opposition to Motion Sequence No. 44**

1. I am a Partner at Brewer, Attorneys & Counselors, counsel for the National Rifle Association of America (the “NRA”).
2. I am personally familiar with the facts set forth in this affirmation.
3. I submit this affirmation in opposition to the NYAG's motion to dismiss certain of the NRA's defenses.
4. Attached hereto are true and correct copies of the following:

- 1) October 15, 2013 article by *Philanthropy New York* regarding Jason R. Lilien, former New York State Charities Bureau Chief, joining Zuckerman Spaeder LLP is attached as **Exhibit 1**.<sup>1</sup>
- 2) May 30, 2014 Reply Memorandum of Law in Further Support of Respondent Michael Sexton's Motion to Convert this Proceeding to a Plenary Action or, in the Alternative, for Leave to Conduct Discovery, and in Opposition to Petitioner's Motion to Strike and for Summary Determination, filed in the matter styled, Index No. 451463/2013; *The People of the State of New York v. The Trump Entrepreneur Initiative LLC f/k/a Trump University*; in the Supreme Court of the State of New York, County of New York [\[NYSCEF 130\]](#) is attached as **Exhibit 2**.
- 3) June 19, 2014 Memorandum of Law in Further Support of the Trump Respondent's Motion to Convert or for Leave to Conduct Discovery, in Opposition to Petitioner's Motion to Strike and in Opposition to Petitioner's Motion for Summary Judgment, filed in the matter styled, Index No. 451463/2013; *The People of the State of New York v. The Trump Entrepreneur Initiative LLC f/k/a Trump University*; in the Supreme Court of the State of New York, County of New York [\[NYSCEF133\]](#) is attached as **Exhibit 356**.
- 4) July 12, 2018 press release made by Letitia James announcing Attorney General platform to protect New Yorkers from Gun Violence is attached as **Exhibit 43**.<sup>2</sup>

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<sup>1</sup> <https://philanthropynewyork.org/news/lilien-leaves-charities-bureau-join-zuckerman-spaeder> (accessed on or about March 1, 2022).

<sup>2</sup> <http://www.tishjames2018.com/press-releases/2018/7/12/taking-on-the-scourge-of-gun-violence-and-keeping-new-yorkers-safe/> (accessed on or about March 12, 2022).

- 5) July 12, 2018 twitter post by Letitia James wherein she announces plans as Attorney General to “stop gun violence and take on the NRA, gun manufacturers, retailers and banks that fund these weapons of death” is attached as **Exhibit 54**.<sup>3</sup>
- 6) July 12, 2018 *New York Daily News* article regarding Letitia James’ statement that she will investigate the NRA if she’s elected Attorney General is attached as **Exhibit 56**.<sup>4</sup>
- 7) August 26, 2018 twitter post by Letitia James, stating 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 . . . .” is attached as **Exhibit 76**.<sup>5</sup>
- 8) 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.” is attached as **Exhibit 87**.<sup>6</sup>
- 9) September 1, 2018 twitter post by Letitia James, stating “Grassroots leaders and volunteers power our campaign. Together. we can win this and take on

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<sup>3</sup> <https://twitter.com/TishJames/status/1017430252971347968> (accessed on or about March 6, 2023).

<sup>4</sup> <https://www.nydailynews.com/news/politics/ny-pol-tish-james-nra-20180712-story.html> (accessed on or about March 10, 2023).

<sup>5</sup> <https://twitter.com/TishJames/status/1033719519930396672> (accessed on or about March 11, 2023).

<sup>6</sup> <https://twitter.com/TishJames/status/1034129429377830913> (accessed on or about March 11, 2023).

@realdonaldtrump & the @nra and make sure all New Yorkers' rights are protected.” is attached as **Exhibit 89**.<sup>7</sup>

10) September 3, 2018 twitter post by Letitia James is attached as **Exhibit 109**.<sup>8</sup>

11) 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” is attached as **Exhibit 110**.

12) September 4, 2018 Screenshot of Letitia James extracted from the video of the Forum for the Democratic Attorney General Primary Candidates video at a NYC bar association gathering where Letitia James calls the NRA “a criminal enterprise” is attached as **Exhibit 121**.<sup>9</sup>

13) September 6, 2018 interview of Letitia James by Our Time Press is attached as **Exhibit 132**.<sup>10</sup>

14) September 13, 2018 article from Law360 announcing Letitia James’ win of the Democratic race for New York Attorney General is attached as **Exhibit 143**.<sup>11</sup>

15) September 13, 2018 twitter post by Letitia James announcing Maxine Waters’ endorsement of her campaign is attached as **Exhibit 154**.<sup>12</sup>

16) September 13, 2018 audio recording of Maxine Waters’ endorsement of Letitia James campaign, wherein she states:

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<sup>8</sup> <https://twitter.com/TishJames/status/1036701771081678849> (accessed on or about March 11, 2023).

<sup>10</sup> <https://web.archive.org/web/20180909170122/https://ourtimepress.com/attorney-general-candidate-public-advocate-letitia-james/> (accessed on or about March 10, 2023).

<sup>11</sup> <https://www.law360.com/articles/1082805/> (accessed on or about March 12, 2023).

<sup>12</sup> <https://twitter.com/TishJames/status/1040254989489332225> (accessed on or about March 6, 2023).

While we're fighting Donald Trump 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. That candidate is Letitia James.

is attached as **Exhibit 165**.<sup>13</sup>

17) September 26, 2018 twitter post by Letitia James stating 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." is attached as **Exhibit 176**.<sup>14</sup>

18) 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." October 25, 2018 *Long Island Herald* article discussing James's comments is attached as **Exhibit 187**.<sup>15</sup>

19) September 28, 2018 twitter post by Letitia James, stating "Yesterday, I met with leaders on Long Island to discuss how we keep our communities safe from gun

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<sup>13</sup> September 13, 2018 audio recording of Maxine Waters' endorsement of Letitia James campaign.

<sup>14</sup> <https://twitter.com/TishJames/status/1044967822210846720> (accessed on or about March 11, 2023).

<sup>15</sup> <https://web.archive.org/web/20220525171641/https://liherald.com/stories/nassau-protests-nra-fundraiser,107617> (accessed on or about March 12, 2023).

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.” is attached as **Exhibit 198**.<sup>16</sup>

20) October 8, 2018 twitter post by Letitia James is attached as **Exhibit 2019**.<sup>17</sup>

21) October 22, 2018 twitter post by Letitia James, stating “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.” (emphasis added) is attached as **Exhibit 210**.<sup>18</sup>

22) October 31, 2018 article published by Ebony.com regarding Letitia James becoming New York's next Attorney General is attached as **Exhibit 212**.<sup>19</sup>

23) November 8, 2018 article published by Our Time Press regarding Letitia James becomes the New York Attorney General and first black woman elected to statewide office is attached as **Exhibit 223**.<sup>20</sup>

24) November 8, 2018 twitter post by Letitia James is attached as **Exhibit 234**.<sup>21</sup>

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<sup>16</sup> <https://twitter.com/TishJames/status/1045664058022735873> (accessed on or about March 11, 2023).

<sup>17</sup> <https://twitter.com/TishJames/status/1049400310593200134> (accessed on or about March 11, 2023).

<sup>18</sup> <https://twitter.com/TishJames/status/1054424991591292929> (accessed on or about March 11, 2023).

<sup>19</sup> <https://www.ebony.com/letitia-tish-james-on-becoming-new-yorks-next-attorney-general/> (accessed on or about March 12, 2023).

<sup>20</sup> <https://ourtimepress.com/tish-james-becomes-new-yorks-attorney-general-first-black-woman-elected-to-statewide-office/> (accessed on or about March 3, 2023).

<sup>21</sup> <https://twitter.com/TishJames/status/1060599506608234497> (accessed on or about March 13, 2023).

25) November 30, 2018 article regarding contracts awarded by the NRA is attached as

**Exhibit 245.**<sup>22</sup>

26) April 27, 2019 ~~Washington Times~~ article regarding Letitia James's investigation into the NRA is attached as **Exhibit 265.**<sup>23</sup>

27) April 19, 2019 complaint about the NRA to the IRS by Everytown is attached as **Exhibit 27.**

28) April 2, 2020 press release issued by James after NRA's reported lawsuit over New York's decision to deem gun retailers nonessential businesses, stating: "We will aggressively defend the state against yet another legal assault by the NRA." is attached as **Exhibit 289.**<sup>24</sup>

29) August 6, 2020 twitter post by Maggie Haberman regarding Letitia James' fundraising letter is attached as **Exhibit 2930.**<sup>25</sup>

30) August 6, 2020 video of Letitia James' press conference regarding filing a lawsuit against the NRA is attached as **Exhibit 310.**<sup>26</sup>

31) August 6, 2020 Transcript of Letitia James' press conference regarding filing a lawsuit against the NRA is attached as **Exhibit 312.**

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<sup>22</sup> <https://www.wsj.com/articles/nra-awarded-contracts-to-firms-with-ties-to-top-officials-1543590697> (accessed on or about March 3, 2023).

<sup>23</sup> <https://www.washingtontimes.com/news/2019/apr/27/new-york-ag-launches-investigation-nra/> (accessed on or about March 13, 2023).

<sup>24</sup> <https://ag.ny.gov/press-release/2020/attorney-general-james-statement-reports-nra-lawsuit-related-covid-19> (accessed on or about March 12, 2023).

<sup>25</sup> [https://twitter.com/maggieNYT/status/1291486241842700290?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1291486241842700%E2%80%A6](https://twitter.com/maggieNYT/status/1291486241842700290?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1291486241842700%E2%80%A6) (accessed on or about March 12, 2023).

<sup>26</sup> <https://ag.ny.gov/livestream/attorney-general-james-files-lawsuit-dissolve-nra> (accessed on or about March 12, 2023).



- 32) August 6, 2020 twitter post by Letitia James regarding her upcoming appearance on MSNBC in which she referred to this action as “the lawsuit my office filed today to dissolve the @NRA. . . .” is attached as **Exhibit 323**.<sup>27</sup>
- 33) 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.” A video of the appearance is attached as **Exhibit 334**.<sup>28</sup>
- 34) August 7, 2020 press release, posted on the <https://ag.ny.gov/> website, “Attorney General James Refuses to Back Down in Fight Against NRA” is attached as **Exhibit 354**.<sup>29</sup>
- 35) August 9, 2020 twitter post by Letitia James in which she summarizes recent achievements and again refers to this action as a “lawsuit to dissolve the NRA” is attached as **Exhibit 356**.<sup>30</sup>
- 36) August 13, 2020 twitter post by Letitia James, stating “One week ago, I filed a lawsuit to dissolve the @NRA” is attached as **Exhibit 367**.<sup>31</sup>

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<sup>27</sup> <https://twitter.com/NewYorkStateAG/status/1291544760990289921> (accessed on or about March 12, 2023).

<sup>28</sup> <https://www.youtube.com/watch?v=22lgahjdAi8> (accessed on or about March 12, 2023).

<sup>29</sup> <https://ag.ny.gov/press-release/2020/attorney-general-james-refuses-back-down-fight-against-nra> (accessed on or about March 11, 2023).

<sup>30</sup> <https://twitter.com/NewYorkStateAG/status/1292555375007473667> (accessed on or about March 12, 2023).

<sup>31</sup> <https://twitter.com/NewYorkStateAG/status/1293924612124876807> (accessed on or about March 12, 2023).

37) August 10, 2020 podcast in which 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.” is attached as **Exhibit 378**.<sup>32</sup>

38) August 10, 2020 appearance on Pod Save America in which 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 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.” is attached as **Exhibit 398**.<sup>33</sup>

39) October 19, 2020 profile piece on James in Vanity Fair which states: “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.” is attached as **Exhibit 3409**.<sup>34</sup>

40) March 23, 2021 Testimony of deposition of W. Wang (corporate representative of the NYAG) is attached as **Exhibit 4054**.

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<sup>32</sup> <https://crooked.com/podcast/art-of-the-steal/> (accessed on or about March 12, 2023).

<sup>33</sup> *Id.*

<sup>34</sup> <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).

41) On or about April 21, 2021, the NRA's Director Tom King testified under oath in the NRA's chapter 11 proceeding. A true and correct excerpt of his testimony is attached as **Exhibit 41**.

42) October 29, 2021 news article regarding Letitia James' announcement that she will run for Governor is attached as **Exhibit 42**.<sup>35</sup>

43) February 25, 2022 Transcript of February 25, 2022 hearing (filed ~~en-as~~ NYSCEF [625](#)) and the various articles cited in the background section of the brief **Exhibit 4357**.

44) February 28, 2022 cover from the *New York* regarding how Letitia James wields her power is attached as **Exhibit 443a**.<sup>36</sup> February 28, 2022 article from the *New York* regarding how Letitia James can beat the two meanest men in politics is attached as **Exhibit 443b**.<sup>37</sup>

45) March 2, 2022 *Decision and Order on Motion* granting motions to dismiss to the extent that the claims for dissolution (first and second causes of action), breach of the NYPMIFA (sixteenth cause of action), and unjust enrichment (eighteenth cause of action) are dismissed; and the motions are otherwise denied [NYSCEF No. 611], is attached as **Exhibit 445**.

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<sup>35</sup> <https://www.washingtonpost.com/politics/2021/10/29/new-york-attorney-general-letitia-james-announces-run-governor/> (accessed on or about March 12, 2023).

<sup>36</sup> <https://nymag.com/press/2022/02/on-the-cover-of-new-york-how-letitia-james-wields-her-power.html> (accessed on or about March 3, 2023).

<sup>37</sup> <https://nymag.com/intelligencer/article/letitia-james-donald-trump-andrew-cuomo.html> (accessed on or about March 13, 2023).

- 46) June 10, 2022 *Decision and Order on Motion* granting the Attorney General's motion and the Amended Counterclaims (NYSCEF 325) are dismissed with prejudice [NYSCEF No. 706], is attached as **Exhibit 4658**.
- 47) July 11, 2022 *Notice of Appeal* [NYSCEF 754] of the Court's *Decision and Order on Motion* of the Supreme Court of the State of New York, New York County, dated June 10, 2022 [NYSCEF 706], related to the dismissal of the NRA's First, Second, Third, Fourth, Fifth and Sixth Counterclaims [NYSCEF 325] is attached as **Exhibit 476**.
- 48) September 29, 2022 Oral Argument Transcript is attached as **Exhibit 487**.
- 49) October 17, 2022 *Decision Order on Motion* denying motions to review the Special Master's determinations [NYSCEF No. 858], is attached as **Exhibit 489**.
- 50) October 17, 2022 *Decision Order on Motion* denying motions to review the Special Mater's determinations [NYSCEF No. 860], is attached as **Exhibit 5049**.
- 51) Plaintiff's Amended Responses and Objections to Defendant NRA's Second Request for Production and a transmittal email from Sharon Sash, dated December 3, 2021, is attached as **Exhibit 504**.
- 52) March 6, 2023 *Affidavit of John Commerford*, and related exhibits, are attached as **Exhibit 512**.
- 53) March 13, 2023 *Affidavit of Peyton Knight*, and related exhibits, are attached as **Exhibit 523**.
- 54) March 13, 2023 Affidavit of Derek S. Robinson, and related exhibits, are attached as **Exhibit 543**. According to Everytown's web site and a recorded statement by its president, Everytown is a 501(c)(4) organization that "was created to serve as a

counterweight to the NRA” that “focuses on advocacy and legislative work and fights to end gun violence with every legal tool available.”

55) December 3, 2021 202 Plaintiff's Amended Responses and Objections to Defendant NRA's Second Request for Production served in this matter is attached as **Exhibit 55**.

56) Transcript of testimony on March 23, 2021 of William Wang is attached as Exhibit 54.

57) April 17, 2019 *The New Yorker* article, “Secrecy, Self-Dealing, and Greed at the N.R.A.” is attached as **Exhibit 26**.

Dated: Filed March 13, 2023  
Corrected on March 17, 2023  
New York, New York

By: s/ Svetlana M. Eisenberg  
Svetlana M. Eisenberg

**Certification of Compliance**

I, Svetlana M. Eisenberg, an attorney duly admitted to practice law before the courts of the State of New York, certify that the foregoing Affirmation filed on behalf of the NRA in support of its opposition to the NYAG's motion to dismiss certain of the NRA's defenses, complies with the word count limit set in 22 CRR-NY 202.8b (a)(1). The affirmation contains fewer than 7,000 words. In executing this certification, I relied on the word count function of MS Word.

Dated: March 13, 2023  
New York, New York

By: s/ Svetlana M. Eisenberg  
Svetlana M. Eisenberg