

**PEOPLE OF THE STATE OF NEW  
YORK, BY LETITIA JAMES,  
ATTORNEY GENERAL OF THE STATE  
OF NEW YORK,**

**V.**

**THE NATIONAL RIFLE ASSOCIATION  
OF AMERICA, ET AL.,**

**Defendants.**



**INDEX NO. 451625/2020**

Hon. Joel M. Cohen

MOTION SEQUENCE NO.

I, Svetlana M. Eisenberg, an attorney duly admitted to practice law in the courts of the State of New York, hereby affirm the following under penalty of perjury pursuant to CPLR § 2106:

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 and submit it in support of the NRA’s motion for a sealing order, dated May 12, 2023.
3. On May 5, 2023, the NYAG opposed various pending motions and, in connection with the oppositions, filed several Confidential records which the NRA moves to seal. Certain passages in the NYAG's memoranda of law and affirmation quote from or characterize the Confidential records and therefore should be partly sealed as well.

4. The chart below itemizes the portions of the records that are at issue in the motion.

Pursuant to this Part's Sealing Practices and Procedures, the NRA will email Chambers a set of the relevant documents with translucent redactions.

NYSCEF No. of relevant notice of motion	NYSCEF No. of the document as filed by the NYAG/related NYAG Exhibit Number	Description	Pin cite(s) (only apply to transcripts)	Basis
Motion Seq. No. 50, NYSCEF No. 1837, Motion Seq. No. 52: NYSCEF No. 1841, Motion Seq. No. 54: NYSCEF No. 1845	Exhibit A: NYSCEF No. 1839, 1843, 1847	J. Tenenbaum's rebuttal report dated, 10.7.22	P. 11	Safety and security of officer of the NRA
Motion Seq. No. 50, NYSCEF No. 1837, Motion Seq. No. 52: NYSCEF No. 1841, Motion Seq. No. 54: NYSCEF No. 1845	Exhibit A: NYSCEF No. 1839, 1843, 1847	J. Tenenbaum's rebuttal report dated, 10.7.22	P. 15 FN 47, 49	Whistleblower and substance of reports

NYSCEF No. of relevant notice of motion	NYSCEF No. of the document as filed by the NYAG/related NYAG Exhibit Number	Description	Pin cite(s) (only apply to transcripts)	Basis
Motion Seq. No. 50, NYSCEF No. 1837, Motion Seq. No. 52: NYSCEF No. 1841, Motion Seq. No. 54: NYSCEF No. 1845	Exhibit A: NYSCEF No. 1839, 1843, 1847	J. Tenenbaum's rebuttal report dated, 10.7.22	P.17	Safety and security of officer of the NRA
Motion Seq. No. 50, NYSCEF No. 1837, Motion Seq. No. 52: NYSCEF No. 1841, Motion Seq. No. 54: NYSCEF No. 1845	Exhibit A: NYSCEF No. 1839, 1843, 1847	J. Tenenbaum's rebuttal report dated, 10.7.22	P.18 FN 60-62	Safety and security of officer of the NRA
Motion Seq. No. 51, NYSCEF No.1898	Exhibit B: NYSCEF No.1901	NRA's Expert Witness Disclosure (Ray Sloane) dated, 10.26.2020	The NRA seeks a sealing order for the entire document. The NYAG cites a single page of the report in opposing W. Phillips's motion to exclude testimony of E. Hines. The NYAG filed the entire 47-page. The document has no relevance to the evidentiary dispute before the Court.	Disclosure served by the NRA in a confidential arbitration
Motion Seq. No. 51, NYSCEF No.1898	Exhibit A: NYSCEF No.1900	Eric Hines Rebuttal Report, dated 10.7.22	Discloses the terms of a confidential settlement agreement	Terms of confidential settlement agreement

NYSCEF No. of relevant notice of motion	NYSCEF No. of the document as filed by the NYAG/related NYAG Exhibit Number	Description	Pin cite(s) (only apply to transcripts)	Basis
Motion Seq. No. 51, NYSCEF No.1898	NYSCEF No.1898	Plaintiff's Memorandum of Law in Opposition to Phillips's Motion to Exclude Eric Hines – Page 20	Quotes from the NRA's disclosure in a confidential arbitration	Confidential arbitration material with minimal relevance to the evidentiary motion before the Court
Motion Seq. No. 47, NYSCEF Nos. 1849, Motion Seq. No. 53, NYSCEF No. 1855, Motion Seq. No. 55, NYSCEF No. 1861	NYSCEF No. 1850, 1856, 1862	Affirmation of William Wang in Support of Plaintiff's Opposition to Defendant NRA's Motion to Exclude Expert Testimony of Dr. Erica Harris – Page 2	Refers to the email message from Executive Director of Human Resources (discussed below)	Sensitive HR information pertaining to former employee
Motion Seq. No. 47, NYSCEF No. 1849, Motion Seq. No. 53, NYSCEF No. 1855, Motion Seq. No. 55, NYSCEF No. 1861	NYSCEF Nos. 1849, 1855, 1861	Plaintiff's Consolidated Memorandum of Law in Opposition to Defendants' Motion to Exclude Testimony of Harris – Page 10	Refers to the email message from Executive Director of Human Resources (discussed below)	Sensitive HR information pertaining to former employee

NYSCEF No. of relevant notice of motion	NYSCEF No. of the document as filed by the NYAG/related NYAG Exhibit Number	Description	Pin cite(s) (only apply to transcripts)	Basis
Motion Seq. No. 47, NYSCEF No. 1849, Motion Seq. No. 53, NYSCEF No. 1855, Motion Seq. No. 55, NYSCEF No. 1861	Exhibit C: NYSCEF Nos. 1853, 1859, 1865	Email from Executive Director of Human Resources, 9.8.22	This is a 1-page email message. The NRA seeks sealing of the message	Sensitive HR information pertaining to former employee

5. One of the records at issue in this sealing motion is a disclosure dated October 26, 2020, served by the NRA in a confidential arbitration between the NRA and a former employee.

6. That arbitration was governed by the IICPR rules, which in part state: “Rule 18: Confidentiality. Unless the parties agree otherwise, the parties, the arbitrators and CPR shall treat the proceedings, any related discovery and the decisions of the Tribunal, as confidential, except in connection with judicial proceedings ancillary to the arbitration, such as a judicial challenge to, or enforcement of, an award, and unless otherwise required by law or to protect a legal right of a party. To the extent possible, any specific issues of confidentiality should be raised with and resolved by the Tribunal.”<sup>1</sup>

<sup>1</sup> <https://drs.cpradr.org/rules/arbitration/non-administered/2018-cpr-non-administered-arbitration-rules>

7. Another record at issue in the motion is the rebuttal report of the NYAG's proposed expert witness Eric Hines. The NRA seeks to seal the passage in the report that reveals confidential information about a confidential settlement agreement between the NRA and a non-party. For the assertion at issue, Hines cites a specific record produced by the NRA. When the NRA produced that record to the NYAG, the NRA designated it Confidential pursuant to the protective order (NYSCEF 869). Moreover, in a meet and confer about the NYAG's request for the production of the record and prior to the production of that record, the NYAG agreed not to contest the Confidential designation of the record under the Protective Order. Documentary proof of this was filed by the NRA in connection with previously filed motions (NYSCEF 1249).

8. Several of the issues addressed in this motion are raised by other pending motions, including Motion Sequence Nos. 43, 58, 60-63 (Notices of Motion at NYSCEF Nos. 1134, 1716, 1769, 1795, 1805, 1816).

9. Attached as **Exhibit 1** is a true and correct copy the IICPR rules quoted above.

Dated: New York, New York  
May 12, 2023

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