

People v National Rifle Assn. of Am.

2023 NY Slip Op 34270(U)

December 8, 2023

Supreme Court, New York County

Docket Number: Index No. 451625/2020

Judge: Joel M. Cohen

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: COMMERCIAL DIVISION PART 03M

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,
JOSHUA POWELL,

Defendants.

INDEX NO. 451625/2020

MOTION DATE 05/12/2023,
05/12/2023

MOTION SEQ. NO. 064 065

**DECISION + ORDER ON
MOTION**

HON. JOEL M. COHEN:

The following e-filed documents, listed by NYSCEF document number (Motion 064) 1934, 1935, 1936, 1937, 1939, 1944, 1945, 1946, 1961, 1965, 2006, 2007, 2008, 2201

were read on this motion to

SEAL

The following e-filed documents, listed by NYSCEF document number (Motion 065) 1938, 1947, 1948, 1949, 1962, 1966, 2009

were read on this motion to

SEAL

Defendant the National Rifle Association’s (the “NRA”) motion to seal or redact, as joined in part by Defendant Wayne LaPierre (“LaPierre”), is **granted in part** without prejudice to Plaintiff the People of the State of New York, by Letitia James, Attorney General of the State of New York (the “OAG”) seeking to unseal at a later stage of these proceedings.

In Motion Sequence No. 64, the NRA moves to seal or redact (i) an expert submission by the NRA in a confidential arbitration proceeding; (ii) a communication regarding an human resources matter concerning a former employee of the NRA, and (iii) passages in the OAG’s proposed expert witness reports revealing confidential information pertaining to (A) the terms of a confidential settlement agreement; (B) safety and security of an NRA employee; and (C)

identity of whistleblowers and details of their reports. In Motion Sequence No. 65, Defendant LaPierre joins in that branch of the NRA's motion seeking to seal certain passages of the OAG's expert reports.

Following substantial efforts by the parties and the Court's staff, the NRA agreed to withdraw certain of its requests to seal and the OAG agreed to withdraw portions of its opposition (NYSCEF 2204 [October 4, 2023 Stipulation and Order]). Additionally, motions to bifurcate and preclude are pending before the Court (Mot. Seq. Nos. 71-75). The resolution of those motions may impact the Court's analysis as to whether sealing is appropriate.

Accordingly, the OAG may move to unseal the documents at a later stage of these proceedings.

Pursuant to § 216.1 (a) of the Uniform Rules for Trial Courts, this Court may seal a filing "upon a written finding of good cause, which shall specify the grounds thereof. In determining whether good cause has been shown, the court shall consider the interests of the public as well as of the parties" (22 NYCRR § 216.1 [a]).

The Appellate Division has emphasized that "there is a broad presumption that the public is entitled to access to judicial proceedings and court records" (*Mosallem v Berenson*, 76 AD3d 345, 348 [1st Dept 2010]). "Since the right [of public access to court proceedings] is of constitutional dimension, any order denying access must be *narrowly tailored to serve compelling objectives*, such as a need for secrecy that outweighs the public's right to access" (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000] [emphasis added]; *see also, e.g. Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]). "Furthermore, because confidentiality is the exception and not the rule, 'the party seeking to seal court records has the burden to demonstrate compelling

circumstances to justify restricting public access” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [citations omitted]).

The Court has reviewed the documents submitted by the parties and grants the NRA’s motion (as joined, in part, by Defendant LaPierre) to seal or redact as amended by the October 4, 2023 Stipulation and Order. The NRA has not sought wholesale sealing of documents and has instead, where appropriate, proposed targeted redactions. Accordingly, the Court finds that limited sealing and targeted redactions are appropriate. As set forth below, however, the Court’s ruling is subject to review following the resolution of the aforementioned pre-trial motions and at trial.

Accordingly, it is:

ORDERED that Defendant the NRA’s motion to seal **GRANTED IN PART** and the NRA’s proposed sealing and redactions, to the extent not withdrawn (NYSCEF 2204), are accepted without prejudice to the OAG seeking to unseal at a later stage of these proceedings; it is further

ORDERED that Defendant Wayne LaPierre’s motion is **GRANTED IN PART** and the NRA’s proposed sealing and redactions, to the extent not withdrawn (NYSCEF 2204), are accepted without prejudice to the OAG seeking to unseal at a later stage of these proceedings; it is further

ORDERED that the County Clerk shall maintain NYSCEF Document Numbers 1837, 1841, 1845, 1849, 1855, 1861, 1898 in their current form; it is further

ORDERED that the relevant documents be filed on the public NYSCEF docket by the NRA with the redactions permitted by this order; it is further

ORDERED as it related to future submissions, made by any party, that contain subject matter that the Court has authorized to be sealed by this Order, parties may file a joint stipulation, to be So Ordered, which will authorize the filing of such future submissions to be filed in redacted form on NYSCEF, provided that an unredacted copy of any redacted document is contemporaneously filed under seal; and it is further

ORDERED that nothing in this Order shall be construed as authorizing the sealing or redactions of any documents or evidence to be offered at trial.

This constitutes the Decision and Order of the Court.

12/8/2023
DATE


JOEL M. COHEN, J.S.C.

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/>	DENIED
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER	<input checked="" type="checkbox"/>	GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/>	SUBMIT ORDER
			<input type="checkbox"/>	FIDUCIARY APPOINTMENT
			<input type="checkbox"/>	OTHER
			<input type="checkbox"/>	REFERENCE